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FOLLOW-UP MECHANISM FOR THE  
IMPLEMENTATION OF THE INTER-AMERICAN  
CONVENTION AGAINST CORRUPTION  
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SURINAME

FINAL REPORT

## SUMMARY OF THE REPORT

This Report contains a comprehensive review of the implementation of the Recommendations that were formulated to Suriname in the report of the Second Round with respect to paragraphs 5 and 8 of Article III of the Inter-American Convention against Corruption, which refer, respectively, to systems of government hiring and procurement of goods and services and for the protection of public servants and private citizens who, in good faith, report acts of corruption. Reference is also made, when appropriate, to new developments with respect to the implementation of these provisions.

In addition, the Report includes a comprehensive review of the implementation in Suriname of paragraphs 3 and 12 of Article III of the Convention, which refer, respectively, to measures intended to create, maintain and strengthen instructions to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities; and a study of further preventive measures that take into account the relationship between equitable compensation and probity in public service. These provisions were selected by the MESICIC Committee of Experts for the Fifth Round. The Report also includes best practices reported by the State in implementing the provisions selected for the Second and Fifth Rounds.

The review was conducted in accordance with the Convention, the Report of Buenos Aires, the Committee's Rules of Procedure, and the methodologies it has adopted for conducting on-site visits and for the Fifth Round, including the criteria set out therein for guiding the review based on equal treatment for all states parties, functional equivalence, and the common purpose of both the Convention and the MESICIC of promoting, facilitating, and strengthening cooperation among the states parties in the prevention, detection, punishment, and eradication of corruption.

The review was carried out mainly taking into account the Suriname's Response to the Questionnaire and information gathered during the on-site visit conducted from April 10 to 12, 2018, by representatives of Guatemala and Paraguay, with the support of the Technical Secretariat of MESICIC. During that visit, the information furnished by Suriname was clarified and supplemented with the opinions of civil society organizations, the private sector, and professional associations on the issues under review.

With regard to the implementation of the recommendations that were formulated to Suriname in the Report from the Second Round, based on the methodology for the Fifth Round and bearing in mind the information provided in the Response to the Questionnaire and during the on-site visit, the Committee made a determination as to which of those recommendations had been satisfactorily implemented, which required additional attention, which required reformulation, and which were no longer valid.

In relation to government systems for the procurement of goods and services, noteworthy is the setting up of the Working Group on Public Procurement comprised by representatives of the Ministry of Public Works, the Ministry of Finance, and the Vice President's Cabinet to work jointly with the Inter-American Development Bank (IDB) on the improvement of the procurement system in Suriname, including the drafting of a new public procurement legislation.

With respect to protection for officials and persons who report acts of corruption, attention should be drawn to the promulgation of the Anti-Corruption Act of September 2017, which establishes the creation of the Anticorruption Commission, and whose article 8 provides certain protective measures for people reporting acts of corruption.

In regards to the criminalization of acts of corruption, it is worth noting the revision of the Criminal Code of March 30, 2015.

Some of the recommendations formulated to Suriname in the Second Round that are still pending or have been rephrased are adopting, through the appropriate legislative and/or administrative procedures provisions that explicitly provide that government hiring into the public service entry is to be based on the principle of merit, through a competitive selection process; establishing regulations on staff recruitment on the manner to hold competitive examinations, including the methods for announcing vacancies and publishing selection requirements, in order to ensure that merit-based competitive examinations comply with principles of openness, efficiency, equity, legality, neutrality, equality and transparency; establishing an administrative and/or judicial challenge procedures to challenge in cases related to selection processes; adopting legislation to regulate the authority that some public servants have to forego public tendering; establishing clear and objective criteria for the purposes of evaluating and awarding publicly awarded contracts; adopting, developing and enacting, a comprehensive and regulatory framework that provides protection for public servants and private citizens who, in good faith, report acts of corruption, including protection of their identities, in accordance with its Constitution and the basic principles of its domestic legal system; adapting and/or expanding, as appropriate, its criminal legislation, in order to include the elements of those acts of corruption set out in Article VI.1 of the Convention.

In addition, with respect to new developments in Suriname in the implementation of the provisions of the Convention selected for the Second Round, the Committee made recommendations in the sense of strengthening the electronic post classification and salary scale system providing the authorities responsible for its implementation and maintenance with the human, technological, and financial resources, within the available resources, needed to ensure that it is fully and effectively operational; establishing the Anticorruption Commission, adopting a calendar with deadlines for appointing the members of the Anticorruption Commission and for the start of its operations; enacting the Regulations to the Anticorruption Act; and preparing statistical information, compiled and broken down by year, on the results of the Anticorruption Commission's work.

For the review of the first provision selected for the Fifth Round, which, as envisaged in Article III (3) of the Convention, concerns instruction to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities, in keeping with the methodology for this Round, the country under review chose the Suriname Police Force/ *"Korps Politie Suriname (KPS)* and the Ministry of Home Affairs because it considers their institutional and normative developments to be relevant and representative of Suriname's entities and institutions as a whole.

This review was focused on determining, with respect to the selected personnel, provisions and/or measures have been adopted to ensure proper understanding of their responsibilities and the ethical rules that govern their activities, the manner and timing of that instruction, the programs envisaged for that purpose, the bodies with responsibilities in that regard, and objective results obtained from the application of those provisions and/or measures governing the activities of the personnel of the aforementioned institutions. At the same time, it took note of any difficulties and/or shortcomings in accomplishing the object of that provision of the Convention.

Some of the recommendations formulated to Suriname, for its consideration, with respect to this topic, are noted as follows:

Adopt induction programs for newly hired personnel of the public administration to inform them of their responsibilities and functions and ensure that they correctly understand them; establish a performance evaluation system for public administration personnel, in order to be able to assess their correct understanding of their responsibilities and functions; make use of modern communications technologies for informing public administration personnel of the responsibilities and functions of their positions, for providing them with guidance regarding the correct discharging thereof, and for raising their awareness of the corruption risks inherent therein; adopt codes of integrity applicable to the public administration's

personnel and, as they are adopted within the country's government agencies, implement training programs focused specifically on complying with those codes of integrity and appoint the authorities responsible for implementing the codes and the corresponding training programs; implement induction, training, or instructional programs and courses to raise the awareness of the personnel of the Suriname Police Force (KPS) regarding the correct performance of their responsibilities and functions, and in particular, about the risks of corruption inherent in the fulfillment of their responsibilities; and ensure that the institution has the human and budgetary resources needed, within the available resources, so that this training can be carried out regularly and in full; make use of modern communications technologies to guide the personnel of the KPS about the correct performance of their responsibilities and functions and raise their awareness about the corruption risks inherent in their positions; and ensure that the institution has the human and budgetary resources needed, within the available resources, for that purpose; and establish an agency within the KPS to which the public administration's personnel can resort to obtain information or resolve issues regarding the scope and interpretation of the ethical rules governing their activities.

In keeping with the above Methodology, the review of the second provision selected for the Fifth Round, envisaged in Article III (12) of the Convention, sought to determine if the State has studied further preventive measures that take into account the relationship between equitable compensation and probity in public service and if it has established objective and transparent guidelines for determining civil servant remunerations. On that basis, it is recommended to Suriname that it consider adopt a wage policy law that establishes, as a minimum, objective and transparent criteria for equitable compensation in the public sector; and to takes steps to ensure that civil servants' salaries effectively constitute payment received from the State in exchange for work performed.

Finally, the best practices reported by Suriname were the adoption of the Anti-Corruption Act, as well as the Code of Ethics for Public Prosecutors/*PPD (Ethische gedragscode OM)*, the launch of the Website of the Department of Public Prosecution (DPP), and the codes of conduct of the Suriname Police Force (KPS).

**COMMITTEE OF EXPERTS OF THE FOLLOW-UP MECHANISM FOR THE  
IMPLEMENTATION OF THE INTER-AMERICAN CONVENTION AGAINST CORRUPTION**

**DRAFT PRELIMINARY REPORT ON FOLLOW-UP ON IMPLEMENTATION IN THE  
REPUBLIC OF SURINAME OF THE RECOMMENDATIONS FORMULATED AND THE  
PROVISIONS REVIEWED IN THE SECOND ROUND, AND ON THE PROVISIONS  
OF THE CONVENTION SELECTED FOR REVIEW IN THE FIFTH ROUND<sup>1/</sup>**

**INTRODUCTION**

**1. Content of the Report**

[1] As agreed upon by the Committee of Experts (hereinafter “the Committee”) of the Follow-up Mechanism for Implementation of the Inter-American Convention against Corruption (hereinafter “MESICIC”) at its Twenty-fourth Meeting,<sup>2/</sup> this Report will first refer to follow up on the implementation of the recommendations formulated to the Republic of Suriname in the Report from the Second Round of Review,<sup>3/</sup> and which were deemed by the Committee to require additional attention in the Report from the Third Round<sup>4/</sup>.

[2] Second, where applicable, it will refer to new developments in the Republic of Suriname with regard to the Convention (hereinafter “the Convention”) provisions selected for the Second Round, in such areas as legal framework, technological developments, and results, and will proceed to make any necessary observations and recommendations.

[3] Third, it will address the implementation, in the Republic of Suriname, of the provisions of the Inter-American Convention against Corruption selected by the Committee of Experts of the MESICIC for the Fifth Round of Review. These provisions are as follows: Article III, paragraphs 3 and 12, regarding, respectively, the measures relating to “[i]nstruction to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities” and to “[t]he study of preventive measures that take into account the relationship between equitable compensation and probity in public service.”

[4] Fourth, it will refer to the best practices that the country under review wished to voluntarily share regarding the implementation of the provisions of the Convention selected for the Second and Fifth Rounds.

**2. Ratification of the Convention and adherence to the Mechanism**

[5] According to the official records of the OAS General Secretariat, Suriname ratified the Inter-American Convention against Corruption on September 22, 1998 and deposited the respective instrument of ratification on June 4, 2002.

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<sup>1/</sup> This report was adopted by the Committee in accordance with the provisions of Articles 3 (g) and 25 of the Committee's Rules of Procedure, at the September 13, 2018 plenary session, within the framework of the Thirty-first Meeting of the Committee, held at OAS headquarters in Washington, D.C., from September 10 to 13, 2018.

<sup>2/</sup> Available at: [http://www.oas.org/juridico/docs/XXIV\\_min.doc](http://www.oas.org/juridico/docs/XXIV_min.doc).

<sup>3/</sup> Available at: [http://www.oas.org/juridico/english/mesicic\\_II\\_inf\\_sur\\_en.pdf](http://www.oas.org/juridico/english/mesicic_II_inf_sur_en.pdf)

<sup>4/</sup> Available at: [http://www.oas.org/juridico/PDFs/mesicic3\\_sur\\_en.pdf](http://www.oas.org/juridico/PDFs/mesicic3_sur_en.pdf)

[6] In addition, Suriname signed the Declaration on the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption also on June 4, 2002.

## I. SUMMARY OF THE INFORMATION RECEIVED

### 1. Response from the Republic of Suriname

[7] The Committee wishes to acknowledge the cooperation that it received throughout the review process from the Republic of Suriname and in particular, from the Ministry of Justice and Police (hereinafter MJP), which was evidenced, *inter alia*, in its Response to the Questionnaire, in the constant willingness to clarify or complete its contents, as in the support provided for execution of the on-site visit referred to in the following paragraph. Together with its Response, Suriname sent the provisions and documents it considered pertinent.<sup>5/</sup>

[8] The Committee also notes that the country under review granted its consent for an on-site visit, in keeping with provision 5 of the *Methodology for Conducting On-Site Visits*.<sup>6/</sup> That visit was conducted from April 10 to 12 of 2018, by the representatives of Guatemala and Paraguay, in their capacity as members of the Review Subgroup, with the support of the MESICIC Technical Secretariat. The information obtained during that visit is included in the appropriate sections of this Report and the agenda for the visit is attached hereto, in accordance with provision 34 of the *Methodology for Conducting On-Site Visits*.

[9] For its review, the Committee took into account the information provided by Suriname up to April 12, 2018, and that furnished and requested by the Secretariat and the members of the Review Subgroup to carry out its functions, in accordance with the *Rules of Procedure and Other Provisions, the Methodology for Follow-up on the Implementation of the Recommendations Formulated and Provisions Reviewed in the Second Round and for the Analysis of the Convention Provisions Selected for the Fifth Round*, and the *Methodology for Conducting On-Site Visits*.<sup>7/</sup>

### 2. Documents and information received from civil society organizations and/or, *inter alia*, private sector organizations, professional organizations, and academics and researchers

[10] The Committee did not receive documents or information from civil society organizations within the time frame established in the schedule for the Fifth Round, pursuant to Article 34 (b) of the Committee's Rules of Procedure

[11] Moreover, during the on-site visit to the country under review, information was gathered from civil society and private sector organizations, professional associations, academics and researchers, who were invited to participate in the meetings held for that purpose, pursuant to provision 27 of the *Methodology for Conducting On-Site Visits*. A list of invitees is included in the agenda of the on-site visit, which has been annexed to this Report. This information is reflected in the appropriate sections of this Report.

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<sup>5.</sup> Said Response and the provisions and documents are available at:

[http://www.oas.org/juridico/english/mesicic5\\_sur.htm](http://www.oas.org/juridico/english/mesicic5_sur.htm)

<sup>6.</sup> Document SG/MESICIC/doc.276/11 rev. 2, available at:

[http://www.oas.org/juridico/english/met\\_onsite.pdf](http://www.oas.org/juridico/english/met_onsite.pdf).

<sup>7</sup> This information is available at: [http://www.oas.org/juridico/spanish/mesicic5\\_pry.htm](http://www.oas.org/juridico/spanish/mesicic5_pry.htm).

## II. FOLLOW-UP ON THE IMPLEMENTATION OF THE RECOMMENDATIONS FORMULATED IN THE SECOND ROUND AND NEW DEVELOPMENTS IN RELATION TO THE CONVENTION PROVISIONS SELECTED FOR REVIEW IN THAT ROUND

[12] First, the Committee will refer below to the progress made, information, and new developments reported on by Suriname in relation to the recommendations formulated and the measures suggested by the Committee for implementation in the Report on the Second Round<sup>8/</sup> and on those that the Committee deemed required additional attention in the Report from the Third Round;<sup>9/</sup> note will be taken of any that have been given satisfactory consideration and of those requiring additional attention by the country under review; and, if applicable, reference will be made to the continued validity of those recommendations and measures and to their restatement or reformulation, in keeping with Section V of the *Methodology* adopted by the Committee for the Fifth Round.

[13] In this section, the Committee will, where applicable, also take note of the difficulties identified by the country under review in implementing the recommendations and measures referred to in the preceding paragraph, as well as to any technical cooperation requested to that end.

[14] Second, reference will be made to the new developments reported on by Suriname in relation to the provisions of the Convention selected for the Second Round, on such matters as normative framework, technological developments, and results, and, as appropriate, any necessary observations and recommendations will be made.

### 1. SYSTEMS OF GOVERNMENT HIRING AND PROCUREMENT OF GOODS AND SERVICES (ARTICLE III (5) OF THE CONVENTION)

#### 1.1. SYSTEMS OF GOVERNMENT HIRING

##### 1.1.1. Follow-Up to the Implementation of the Recommendations Formulated in the Second Round

###### Recommendation 1.1.1:

*Establish, maintain and strengthen the systems of government hiring of public servants, when applicable, that assure the openness, equity and efficiency of such systems.*

###### Measure (a) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Adopt, through the appropriate legislative and/or administrative procedures provisions that explicitly provide that government hiring into the public service entry is to be based on the principle of merit, through a competitive selection process.*

[15] In its Response to the Questionnaire, the country under review made no reference to this measure of the foregoing recommendation.

[16] In addition, the Committee notes that during the on-site visit, the representatives of the Interior Ministry stated that one of the current problems was the existence of outdated laws—including the Staff

<sup>8</sup> Available at: [http://www.oas.org/juridico/english/mesicic\\_II\\_inf\\_sur\\_en.pdf](http://www.oas.org/juridico/english/mesicic_II_inf_sur_en.pdf)

<sup>9</sup> Available at: [http://www.oas.org/juridico/PDFs/mesicic3\\_sur\\_en.pdf](http://www.oas.org/juridico/PDFs/mesicic3_sur_en.pdf)

Act, which dates from 1962 and was most recently revised in 1987—that establish age, residence, and health as the only requirements for entry into public service. They said the current legislation had to be amended so that elements such as education and skills were taken into account in selection processes for hiring public servants, in order to ensure that the most qualified candidates were chosen to occupy public positions.

[17] In relation to this, the representatives of the Interior Ministry said that another difficulty was that at present, most public service appointments were made by means of internal transfers within the civil service and that external employment opportunities were very infrequent.

[18] They added that whenever there is a change in government or a new minister is appointed, the staff are sent home, where they remain on the payroll, receiving their salaries without working, and they are replaced by personnel appointed by the new administration or by the minister belonging to the new ruling party. They explained that these staff members who are sent home are designated as inactive “dismissed” personnel and they must remain “available” in case their services are needed. In practice, however, it is unusual for “available” personnel to return to work, even when they are qualified to perform the functions required; instead, they explained, preference is given to people from the political party in power, regardless of whether or not they have the skills needed to perform the functions in question.

[19] In addition to those public servants who have been “dismissed” or sent home following a change in the administration or the ministry, the representatives of the Interior Ministry also spoke of the problem of “ghost” officials: those who simply stop coming into work but continue to receive their salaries and benefits.

[20] They therefore reiterated the need to implement a human resources and staff hiring system based on the principles of disclosure, equity, and efficiency, which would require legislation in line with those principles. They also said it would be very useful to conduct studies of the labor market and the government’s requirements, in order to draw up a hiring plan to cover those needs.

[21] The Committee also notes that on that same occasion, the representatives of the Ministry of Justice and Police (MJP) underscored the need for equality of opportunities in hiring staff for the public administration since, at present, it was very difficult for people who did not belong to the ruling political party to be hired. They said that prior to the elections, a large number of people belonging to the political party in power are hired, and they are then replaced by personnel belonging to the new governing party. They reiterated that this practice must be eradicated so that the most qualified staff can be hired and equality of opportunities can be promoted.

[22] In connection with this, the Committee notes that the origin of measures (a) and (b) of the above recommendation dates back to the review conducted during the Second Round, in which the Committee formulated the following observation:

[23] *The Committee recognizes the practice of the Republic of Suriname in following certain selection criteria and procedures. However, the Committee notes these procedures are not regulated under the Staff Act (State Decree 1985, No. 41), that they are not mandatory, and that the legislation scheme in place does not state that entry into the public service is to be made through a competitive selection process and based on the principle of merit. In order to properly assure the openness, fairness, equality and efficiency of the government hiring system, the Committee believes that Suriname could consider having its the legislation explicitly state that selection is made on merit, based on a competitive selection*

*process, and develop this system accordingly, ensuring that its application is made on the basis of equality and non-discrimination. In this regard, the Committee will formulate recommendations.*<sup>10</sup>

[24] Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (a) (see recommendation 1.1.3.1 in section 1.1.3 of Chapter II of this Report).

[25] Similarly, during the on-site visit, the comments made by the civil society organization *Stiching Projekta* included the following:<sup>11</sup>

[26] – “As far as we know, there have been no changes in the system for the hiring of public officials”.

[27] – “There is no real HR policy within each ministry, only personnel administration”.

[28] – “Unclear what and when positions are open”.

[29] – “The majority of hiring is still not taking place through merit- based competitions or based on real needs.”

[30] – “Political appointees are business as usual, staff members are replaced with each change of ministers, previous personnel is side tracked, but kept on pay roll”.

[31] – “Ever increasing number of public servants leads to demotivation, and poor working conditions”.

[32] – “The only exception is (still) the case of government-managed programs funded by external donors, for which it is mandatory that job openings are posted publicly”.

Measure (b) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Establish regulations on staff recruitment on the manner to hold competitive examinations, including the methods for announcing vacancies and publishing selection requirements, in order to ensure that merit-based competitive examinations comply with principles of openness, efficiency, equity, legality, neutrality, equality and transparency.*

[33] In its Response to the Questionnaire, the country under review made no reference to this measure of the foregoing recommendation. However, as noted above, during the on-site visit the representatives of the Interior Ministry and of the MJP highlighted the need to amend the current Staff Act in order to improve the systems for hiring public officials and personnel administration.

[34] The Committee notes that, as stated in the previous section, the origin of measures (a) and (b) of this recommendation dates back to the review conducted in the Second Round, when the Committee formulated the following observation:

<sup>10</sup> See Suriname report corresponding to the Second Round, pp.4.

<sup>11</sup> See, in the document submitted by *Stiching Projekta*, the section on systems for the hiring of public officials [http://www.oas.org/juridico/english/mesicic5\\_sur.htm](http://www.oas.org/juridico/english/mesicic5_sur.htm)

[35] *“The Committee recognizes the practice of the Republic of Suriname in following certain selection criteria and procedures. However, the Committee notes these procedures are not regulated under the Staff Act (State Decree 1985, No. 41), that they are not mandatory, and that the legislation scheme in place does not state that entry into the public service is to be made through a competitive selection process and based on the principle of merit. In order to properly assure the openness, fairness, equality and efficiency of the government hiring system, the Committee believes that Suriname could consider having its the legislation explicitly state that selection is made on merit, based on a competitive selection process, and develop this system accordingly, ensuring that its application is made on the basis of equality and non-discrimination. In this regard, the Committee will formulate recommendations.”*<sup>12</sup>

[36] Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (b) (see recommendation 1.1.3.2 in section 1.1.3 of Chapter II of this Report).

Measure (c) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Adopt, through the appropriate legislative and/or administrative procedures, mechanisms that provide clearly defined criteria for the advertisement of hiring opportunities, and to ensure that when a public service position is open to the public, the appropriate Government authority is required to advertise it.*

[37] In its Response to the Questionnaire, the country under review made no reference to this measure of the foregoing recommendation. However, as noted above, during the on-site visit the representatives of the Interior Ministry and of the MJP highlighted the need to amend the current Staff Act in order to improve the systems for hiring public officials and personnel administration.

[38] The Committee notes that the origin of measure (c) of this recommendation dates back to the review conducted in the Second Round, when the Committee formulated the following observation:

[39] *“Secondly, the Committee notes that there are no provisions for the advertising of positions in the public service, the content and form of these advertisements as well as the timeframe for their publication. Neither is there any provision regarding the need for a prior description of the requirements needed to occupy a position and access to such information by the general public, so as to guarantee the objectivity and equity that a process for selecting a public servant must have. In this regard, the Committee will formulate recommendations”.*<sup>13</sup>

[40] Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (c) (see recommendation 1.1.3.3 in section 1.1.3 of Chapter II of this Report).

[41] Similarly, during the on-site visit, the comments made by the civil society organization *Stiching Projekta* included the following:<sup>14</sup>

[42] *“Unclear what and when positions are open.”*

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<sup>12</sup> See Suriname report corresponding to the Second Round, pp.4.

<sup>13</sup> See Suriname report corresponding to the Second Round, pp.5.

<sup>14</sup> See, in the document submitted by *Stiching Projekta*, the section on systems for the hiring of public officials [http://www.oas.org/juridico/english/mesicic5\\_sur.htm](http://www.oas.org/juridico/english/mesicic5_sur.htm)

Measure (d) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Make the necessary changes so that the probationary employment system, as part of the selection process, is applied with uniform criteria throughout the public administration, in order to promote the principles of equity and efficiency as set out in the Convention.*

[43] In its Response to the Questionnaire, the country under review made no reference to this measure of the foregoing recommendation. Accordingly, the Committee notes that the origin of measure (d) of this recommendation dates back to the review conducted in the Second Round, when the Committee formulated the following observation:

[44] *“Thirdly, the Committee notes that the Staff Act states that temporary employment can be used as probationary employment. Nevertheless, it is noticed that probationary employment is not being consistently applied in the public service. Taking into account that a probationary period is part of the selection process, the Committee considers that in order to promote the principle of equity as set out in the Convention, it would be advantageous for the Republic of Suriname to consider making the necessary amendments so that probation is applied with uniform criteria throughout the public service. In this regard, the Committee will formulate recommendations”.*<sup>15</sup>

[45] Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (d) (see recommendation 1.1.3.4 in section 1.1.3 of Chapter II of this Report).

Measure (e) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Take the necessary steps including the amendments of its legislation that it deems adequate in order provide an administrative and/or legal method of redress regarding appointments.*

[46] The country under review made no reference to this measure of the foregoing recommendation in its Response to the Questionnaire or during the on-site visit.

[47] Regardless of the foregoing, the Committee notes that during the Second Round, the country under review indicated that *“article 78 and the following articles of the Personnel act mention the procedure of complaint regarding appointment”*. However, this information was submitted after May 22, 2008, the deadline set by the Committee of Experts for presenting the Response to the Questionnaire; consequently, it was not analyzed and appears in a footnote in keeping with the procedure adopted by the Committee for such cases.<sup>16</sup>

[48] In connection with this, the Committee notes that Articles 78 and 79 of the Staff Act provide as follows:

[49] *“Article 78”*<sup>17</sup>

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<sup>15</sup> See Suriname report corresponding to the Second Round, pp.5.

<sup>16</sup> Second Round Report on Suriname, p. 5, footnote No. 5.

[http://www.oas.org/juridico/spanish/mesicic\\_II\\_inf\\_sur\\_sp.pdf](http://www.oas.org/juridico/spanish/mesicic_II_inf_sur_sp.pdf)

[50] *“COMPLAINT WITHIN THE ADMINISTRATION*

[51] *“1. A decision affecting the application of this act is, within one month, subject to written complaint before a higher authority or the body that adopted the decision, except in cases where an action has been brought pursuant to Article 79, paragraph one. Such a complaint does not have suspensive effect.*

[52] *“2. A body is also considered to have adopted a decision:*

[53] *a. if it has failed to take an obligatory action within the time limit set for it – or, if no time is specified, within three months;*

[54] *b. if it has not expressly ruled on a submitted request within six months.*

[55] *“3. The complaint can be filed by the party regarding which the decision was adopted, by that party’s legal representative, or by that party’s heirs and assigns.*

[56] *“4. The complainant has a right to a ruling within three months unless the statement of complaint is worded inappropriately or aims to repeat a previously filed complaint without citing new facts.*

[57] *“5. If it finds grounds for doing so after examining the complaint, the higher authority can modify or replace the decision complained about in the affected party’s favor, or invalidate it with retroactive effect or otherwise”.*

[58] *Article 79<sup>18</sup>*

[59] *JURISDICTION OF THE CIVIL COURTS IN CIVIL SERVANT MATTERS*

[60] *“1. The Court of Justice judges in the first and highest instance on actions:*

[61] *“a. to fully or partially annul a decision subject thereto that was adopted with respect to a civil servant or a former civil servant, on grounds of conflict with a provision of law or on grounds of manifest use of an authority other than for the purpose for which the authority was granted; or on grounds of conflict with any principle of proper administration affirmed in legal consciousness;*

[62] *“b. to gain compensation for the damage that resulted for a civil servant or former civil servant, or for his heirs and assigns, from a decision or from the failure to adopt a decision, or from not doing so in a timely manner, or from performing or omitting an act, in conflict with the provisions under or pursuant to this act;*

[63] *“c. to impose a fine for the further failure to adopt a decision or perform an act – or for continuing or repeating an act – in conflict with the provisions under or pursuant to this act with respect to civil servants, former civil servants, and their heirs and assigns.*

[64] *“2. Decisions subject to annulment are those:*

*a. concerning salary, vacation pay, pensions, or retaining pay;*

*b. concerning demotions;*

*c. concerning exemption from service, vacation, or non-activity;*

- d. under which a disciplinary measure other than a declaration of dissatisfaction or a reprimand has been imposed;*
- e. concerning suspension or dismissal.*

[65] “3. *Annulment of a decision imposing a disciplinary measure can also be sought on the grounds that such measure is not proportionate to the seriousness and consequences of the breach of duty and the circumstances under which it was committed.*

[66] “4. *The Court does not undertake an assessment of what is demanded by the interests of the service if a reasonable difference of opinion is possible on that point.*

[67] “5. *The civil courts do not have jurisdiction to hear actions brought against the Country relating to a civil servant relationship other than those referred to in this article.*

[68] In this regard, the Committee notes that Suriname’s Staff Act does in fact provide procedures for both administrative and judicial challenges; at the same time, it believes measure (e) of this recommendation must be restated for the reasons given below:

[69] First of all, as regards Article 78 of the Staff Act, the Committee notes that although it provides procedures for administrative challenges, it makes no reference to those remedies being available, in cases related to selection procedures, to members of the public who are not civil servants who apply for positions in the public service. Similarly, the Committee notes that neither that article nor the ones that follow make any mention of the possibility of an administrative challenge leading to the revocation or annulment of an appointment when it is determined that the appointment was the result of, *inter alia*, an irregular or inappropriate procedure or a fraudulent competition. The Committee therefore believes that the country under review should consider adopting provisions to that effect and will formulate recommendations in that regard (see recommendations 1.1.3.5 and 1.1.3.6 in Section 1.1.3 of Chapter II of this Report).

[70] Second, the Committee notes that Article 79 of the Staff Act provides for judicial challenges in cases brought by both civil servants and former civil servants. However, the Committee notes that those remedies are not available to members of the public who are not civil servants or former civil servants in cases involving selection procedures for positions for which they applied. The Committee therefore believes it would be useful for the country under review consider adopting such provisions and it will formulate a recommendation on that point (see recommendation 1.1.3.7 in Section 1.1.3 of Chapter II of this Report).

[71] Similarly, the Committee notes that Article 79 of the Staff Act, sections 2 and 3, provide that:

- [72] “2. *Decisions subject to annulment are those:*
- a. concerning salary, vacation pay, pensions, or retaining pay;*
  - b. concerning demotions;*
  - c. concerning exemption from service, vacation, or non-activity;*
  - d. under which a disciplinary measure other than a declaration of dissatisfaction or a reprimand has been imposed;*
  - e. concerning suspension or dismissal.*

[73] “3. *“Annulment of a decision imposing a disciplinary measure can also be sought on the grounds that such measure is not proportionate to the seriousness and consequences of the breach of duty and the circumstances under which it was committed”.*

[74] Accordingly, the Committee notes that the list of decisions that can lead to judicial annulment does not include appointment decisions taken in selection procedures for civil servants, when it is found that an appointment process was, among other things, irregular, improper or made through a fraudulent competition. In view of the foregoing, the Committee believes it would be useful for the country under review to consider adopting provisions in that regard, and it will formulate a recommendation (see recommendation 1.1.3.8 in Section 1.1.3 of Capítulo II of this Report)

Measure (f) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Adopt a post classification manual as well as a clearly defined policy in order to regulate how the ranks of officials are determined, including those of new entry into the public service*

[75] In its Response to the Questionnaire, the country under review made no reference to this measure of the foregoing recommendation.

[76] Nevertheless, the Committee notes that during the on-site visit, the representatives of the Interior Ministry spoke of the implementation of the electronic classification and salary-scale system for state employees (FISO), which was examined during the Fourth Round and regarding which the Committee has already formulated recommendations,<sup>19</sup> which it reiterates at the present time.

[77] In this regard, the Committee notes that during the on-site visit, the representatives of the Interior Ministry identified several additional difficulties with the FISO system, described below:

[78] First of all, the representatives of the Interior Ministry stated that in addition to the excluded positions identified in the Fourth Round Report (prosecutors, High Court judges, and senior public officials in the Ministry of Justice and Police), there were other groups of public servants whose positions were also not covered by the FISO system—such as staff members with special functions, including medical personnel and teachers, as well as advisors and people serving public functions under other hiring mechanisms—and they added that the exceptions to the use of FISO system were constantly expanding.

[79] Second, the Interior Ministry’s representatives also stated that the job descriptions contained in the FISO system needed updating, but that this was not possible because the system’s license had expired and had not been extended.

[80] In this regard, the Committee notes that the origin of this recommendation goes back to the review conducted in the Second Round, when the following comment was made:

[81] *“Fifth, the Committee notes that while article 16 of the Act states that the rank of a public servant shall be stipulated in a decree for appointment, no mention is made of a classification system that would regulate how those ranks are determined. In this regard, the Committee will formulate a recommendation”.*<sup>20</sup>

[82] Given the foregoing, the Committee takes note of the difficulties highlighted by the country under review and believes it should reformulate the previous recommendation, since although an electronic position classification system has been implemented, it does not cover all persons performing public functions and is not fully operational. In this regard, the Committee believes it would be useful for the

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<sup>19</sup> See: Report on Suriname from the Fourth Round of Review, recommendations 1.4.3, 2.4.2, and 3.4.12.

<sup>20</sup> Report on Suriname from the Second Round of Review, pp.5.

country under review to consider establishing post classification and function description manuals, with the corresponding salary scales, together with a clearly defined policy that regulates how civil servants are classified, for all persons who discharge public functions who are not yet so classified, and ensuring that they are fully enforced (see recommendation 1.1.3.9 in section 1.1.3 of Chapter II of this Report).

[83] In addition, the Committee believes it would be useful for the country under review to consider ensuring that the job descriptions are kept up to date and providing the human and financial resources needed to ensure that the electronic post classification and salary-scale system is fully functional, to which end it will formulate recommendations (see recommendations 1.1.3.10 and 1.1.3.11 in section 1.1.3 of Chapter II of this Report).

[84] Finally, the Committee notes that the function descriptions and post classifications are not available to the general public and so cannot be consulted by the citizens; it therefore believes it would be advisable for the country under review to consider publishing the public sector's post classification manuals on the internet, together with requiring the publication of all such manuals in a way that any person can consult them. The Committee will formulate recommendations (see recommendations 1.1.3.12 and 1.1.3.13 in section 1.1.3 of Chapter II of this Report).

Measure (g) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Adopt provisions concerning those positions in the other branches of the Government not covered by the Staff Act (State Decree 1985, No. 41), that explicitly provide that government hiring into all branches of Government and all Government agencies is to be made through a competitive selection process and based on the principle of merit, and develop that system.*

[85] The country under review made no reference to this measure of the foregoing recommendation in its Response to the Questionnaire or during the on-site visit.

[86] In this regard, the Committee would like to note that the origin of this recommendation dates back to the Second Round Report, when it formulated the following observation:

[87] *“Sixth, the Committee notes that it is not clearly defined whether the Staff Act (State Decree 1985, No. 41) is applicable to the public servants in the other branches of the Government, such as the legislative and judiciary. In this regard, the Committee will formulate a recommendation”.*<sup>21</sup>

[88] Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (g) (see recommendation 1.1.3.14 in section 1.1.3 of Chapter II of this Report).

Measure (h) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Design and implement, when appropriate, training and induction programs for those persons recently hired into public service.*

[89] In its Response to the Questionnaire, the country under review made no reference to this measure of the foregoing recommendation.

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<sup>21</sup> Report on Suriname from the Second Round of Review, pp.5.

[90] Since Chapter III of this Report contains an updated and detailed review on the “*Instruction to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities (Article III, paragraph 3, of the Convention)*,” which includes, *inter alia*, training and induction programs for new public service hires, the Committee endorses the comments made in that section and, consequently, believes that this recommendation is redundant.

## **1.1.2. New Developments with Respect to the provisions of the Convention on Systems of Government Hiring**

### **1.1.2.1. Results**

[91] The country under review did not indicate, either in its Response to the Questionnaire or during the on-site visit, the results obtained in connection with the enforcement of provisions and/or measures related to the Convention’s provisions on hiring systems for public officials.

[92] Given the foregoing, the Committee believes it would be useful for the country under review to consider the possibility of keeping detailed, broken-down yearly statistics on the results of personnel selection processes for filling public sector positions, clearly indicating the number of public officials hired through merit-based competitive processes, through direct appointments, and through internal and external selection processes; the number appointed under service provision contracts; the number who are on probation and the duration thereof; the number on active service; the number who are “inactive” and who receive salaries and benefits without reporting for work as a result of being “dismissed” following administrative or ministerial changes; the number of “ghost” employees who no longer report to work but continue to receive salaries and benefits; the number of challenges lodged against public service appointments under the terms of Articles 78 and 79 of the Staff Act and the results of those challenges, in order to identify challenges and, if necessary, to recommend corrective measures. The Committee will formulate a recommendation (see recommendation 1.1.3.15 in section 1.1.3 of Chapter II of this Report).

### **1.1.3. Recommendations**

[93] In light of the observations formulated in sections 1.1.1 and 1.1.2, the Committee suggests that the country under review consider the following recommendations:

- 1.1.3.1 Adopt, through the appropriate legislative and/or administrative procedures provisions that explicitly provide that government hiring into the public service entry is to be based on the principle of merit, through a competitive selection process. (See paragraphs 14 to 31 in section 1.1.1 of Chapter II of this Report.)
- 1.1.3.2 Establish regulations on staff recruitment on the manner to hold competitive examinations, including the methods for announcing vacancies and publishing selection requirements, in order to ensure that merit-based competitive examinations comply with principles of openness, efficiency, equity, legality, neutrality, equality and transparency. (See paragraphs 32 to 35 in section 1.1.1 of Chapter II of this Report.)
- 1.1.3.3 Adopt, through the appropriate legislative and/or administrative procedures, mechanisms that provide clearly defined criteria for the advertisement of hiring opportunities, and to ensure that when a public service position is open to the public, the appropriate Government authority is required to advertise it. (See paragraphs 36 to 41 in section 1.1.1 of Chapter II of this Report.)

- 1.1.3.4 Make the necessary changes so that the probationary employment system, as part of the selection process, is applied with uniform criteria throughout the public administration, in order to promote the principles of equity and efficiency as set out in the Convention. (See paragraphs 42 to 44 in section 1.1.1 of Chapter II of this Report.)
- 1.1.3.5 Consider adopting provisions to allow members of the public who are not civil servants access to the administrative challenge procedures in cases related to selection processes through which they apply for positions in the public service. (See paragraphs 45 to 68 in section 1.1.1 of Chapter II of this Report.)
- 1.1.3.6 Consider adopting provisions that specifically establish that, following an administrative challenge, an appointment can be revoked or annulled when it is determined that it was the result of, *inter alia*, an irregular or inappropriate procedure or a fraudulent competition. (See paragraphs 45 to 68 in section 1.1.1 of Chapter II of this Report.)
- 1.1.3.7 Consider adopting provisions to allow members of the public who are not civil servants or former civil servants access to judicial challenge procedures in cases involving selection processes for positions for which they apply. (See paragraph 69 in section 1.1.1 of Chapter II of this Report.)
- 1.1.3.8 Consider adopting provisions that specifically establish that, following a judicial challenge, an appointment can be revoked or annulled when it is determined that it was the result of, *inter alia*, an irregular or inappropriate procedure or a fraudulent competition. (See paragraphs 70 to 73 in section 1.1.1 of Chapter II of this Report.)
- 1.1.3.9 Establish post classification and function description manuals, with the corresponding salary scales, together with a clearly defined policy that regulates how civil servants are classified, for all persons who discharge public functions who are not yet so classified, and ensure that they are fully enforced. (See paragraphs 74 to 81 in section 1.1.1 of Chapter II of this Report.)
- 1.1.3.10 Take the steps necessary to ensure that the job descriptions of for all persons who discharge public functions are kept up to date. (See paragraph 82 in section 1.1.1 of Chapter II of this Report.)
- 1.1.3.11 Strengthen the electronic post classification and salary scale system, providing the authorities responsible for its implementation and maintenance with the human, technological, and financial resources, within the available resources, needed to ensure that it is fully and effectively operational. (See paragraph 83 in section 1.1.1 of Chapter II of this Report.)
- 1.1.3.12 Publish the public sector position classification manuals on the internet, so that all members of the public may consult them. (See paragraph 83 in section 1.1.1 of Chapter II of this Report.)
- 1.1.3.13 Consider introducing provisions requiring the publication of public sector position classification manuals, so that all members of the public may consult them. (See paragraph 83 in section 1.1.1 of Chapter II of this Report.)
- 1.1.3.14 Adopt provisions concerning those positions in the other branches of the Government not covered by the Staff Act (State Decree 1985, No. 41) , that explicitly provide that

government hiring into all branches of Government and all Government agencies is to be made through a competitive selection process and based on the principle of merit, and develop that system. (See paragraphs 84 to 87 in section 1.1.1 of Chapter II of this Report.)

- 1.1.3.15 Keep detailed, broken-down yearly statistics on the results of personnel selection processes for filling public sector positions, in order to clearly indicate the number of public officials hired through merit-based competitive processes, through direct appointments, and through internal and external selection processes; the number appointed under service provision contracts; the number who are on probation and the duration thereof; the number on active service; the number who are “inactive” and who receive salaries and benefits without reporting for work as a result of being “dismissed” following administrative or ministerial changes; the number of “ghost” employees who no longer report to work but continue to receive salaries and benefits; the number of challenges lodged against public service appointments under the terms of Articles 78 and 79 of the Staff Act and the results of those challenges, in order to identify challenges and, if necessary, to recommend corrective measures. (See paragraphs 90 to 91 in section 1.1.2 of Chapter II of this Report.)

## **1.2. GOVERNMENT SYSTEMS FOR THE PROCUREMENT OF GOODS AND SERVICES**

### **1.2.1. Follow-Up to the Implementation of the Recommendations Formulated in the Second Round**

#### Recommendation 1.1.1:

*Strengthen systems for the procurement of goods and services by the government.*

#### Measure (a) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Provide criteria for what constitutes the expression “in the national interest” used in Article 18 of the Compatibility act.*

[94] The country under review made no reference to this measure of the foregoing recommendation in its Response to the Questionnaire or during the on-site visit.

[95] In this regard, the Committee would like to note that the origin of this measure of the recommendation dates back to the review conducted in the Second Round, when it formulated the following observation:

[96] *“First, the Committee notes that although Article 18 of the Compatibility Act states that the President can depart from the rule of awarding contracts for performing work and conducting deliveries and transport of goods by public tender, if this is in the national interest. Nevertheless, the rule does not provide any criteria of what would constitute national interest. The Committee believes that, in order to guarantee the principles of openness, fairness and efficiency, the country under review would benefit from considering some parameters in this regard, and will formulate a recommendation ”.*<sup>22</sup>

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<sup>22</sup> Report on Suriname from the Second Round of Review, pp.14.

[97] Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (a) (see recommendation 1.2.3.1 in section 1.2.3 of Chapter II of this Report).

Measure (b) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Adopt legislation to regulate the authority that some public servants have to forego public tendering.*

[98] The country under review made no reference to this measure of the foregoing recommendation in its Response to the Questionnaire or during the on-site visit.

[99] In this regard, the Committee would like to note that the origin of this measure of the recommendation dates back to the review conducted in the Second Round, when it formulated the following observations:

[100] *“Second, Article 18 of the Compatibility Decree indicates that in some cases the President, in collaboration with the corresponding minister and the Minister of Financial Affairs, may decide to forego the rule of putting the invitation to tender out publicly, indicating the basis for this; however, there are no precise standards addressing the use of this power and thus the State might consider it appropriate to provide regulation on this subject.*

[101] *“The indicated article also states that “In the event that the conditions for the tender are not already stipulated in the general provisions for the performance of the works, deliveries, or transport, that tender may only be carried out after approval of its conditions.” The Committee of Experts finds that the conditions for moving ahead with a tender must be provided for in the rules governing the subject, so that a recommendation will be formulated”.*<sup>23</sup>

[102] Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to implementation of measure (b) (see recommendation 1.2.3.2 in section 1.2.3 of Chapter II of this Report).

Measure (c) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Establish clear and objective criteria for the purposes of evaluating and awarding publicly awarded contracts*

[103] The country under review made no reference to this measure of the foregoing recommendation in its Response to the Questionnaire or during the on-site visit.

[104] In this regard, the Committee would like to note that the origin of this measure of the recommendation dates back to the review conducted in the Second Round, when it formulated the following observations:

[105] *“Third, the aforementioned article 18 of the Compatibility Decree states that “The rule on public tendering may be disregarded in the following cases: “2. For deliveries, works, and transport in amounts up to SRD 30,000.” The Committee notes that regarding this point it would also be useful for the country*

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<sup>23</sup> Report on Suriname from the Second Round of Review, pp.14.

*to consider having a contractor selection procedure that would ensure the principles of equity, disclosure, and efficiency provided in the Convention.*

[106] *“With respect to the criteria to be used in the evaluation of bidders, the Committee takes note of the absence of such norms in the legislative regime in place. There appears to be no evaluation guidelines that provide objective evaluation factors or criteria. Section 81, paragraph 1, of the General Provisions, which deals with evaluation of bidders, only states that the principal shall evaluate the bidders for which he can obtain the advice of third parties. And although the missive of the Board of Ministers of October 14, 2005 states that during a public tender, a Board proposal will be made and submitted to the Board of Tenders and Licenses (ORAG), who will assess the result of the tender held by the government agencies, and will decide by missive which applicant will qualify for the job, no guidelines are provided on what will be the criteria utilized by the ORAG to make such assessment.*

[107] *“A similar situation is found in regards to the awarding of contracts, where guidelines on selection criteria seem to be insufficient. Section 84 of the General Provisions states that the principal reserves the right, with no obligation to account for his actions, to either not award the contract, or in awarding the contract to consider factors apart from the bid price and unit prices, including attendance of registration, and to award the contract to the contractor whose bid he finds more acceptable. Nevertheless, there are no guidelines or definition on what is considered an acceptable bid, and there seems to be a high degree of discretion involved and no accountability in the part of the principal when it comes to awarding contracts.*

[108] *“Given these circumstances, the Committee believes this does not provide the necessary guarantees that decisions are made that are not discretionary, arbitrary and subjective. Therefore, to preserve impartiality, transparency and equality of opportunity, the Committee believes that the Republic of Suriname should consider adopting objective criteria for the evaluation of bids and the awarding of contracts that are reflected in legislation or formulated in an administrative document. In that regard, the Committee will formulate a recommendation”.*<sup>24</sup>

[109] Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (c) (see recommendation 1.2.3.3 in section 1.2.3 of Chapter II of this Report).

[110] In addition, during the on-site visit, the civil society organization *Stiching Projekta* indicated that *“There is still no level-playing field with respect to purchases of goods and services, and non transparency is rampant. The anti-corruption law should apply here, but this law is still not implemented, and implementation is unclear on how this shall impact monitoring of compliance.”*<sup>25</sup>

Measure (d) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Implement guidelines or criteria that allow for an analysis as to whether the launch of a procurement process requires prior planning sufficiently in advance of the launch of procurement process, such as preparing studies, designs and technical evaluations, and to assess the appropriateness and timeliness of the purchase*

<sup>24</sup> Report on Suriname from the Second Round of Review, pp.14.

<sup>25</sup> See document presented by *Stiching Projekta*. Available at [http://www.oas.org/juridico/english/mesicic5\\_sur.htm](http://www.oas.org/juridico/english/mesicic5_sur.htm)

[111] The country under review made no reference to this measure of the foregoing recommendation in its Response to the Questionnaire or during the on-site visit.

[112] In this regard, the Committee would like to note that the origin of this measure of the recommendation dates back to the review conducted in the Second Round, when it formulated the following observation:

[113] *“Fourth, the Committee observes that there are no guidelines or criteria within the legislative regime in place that allow for an analysis as to whether the launch of procurement process requires prior planning sufficiently in advance of the launch of procurement process, such as preparing studies, designs and technical evaluations, and to assess the appropriateness and timeliness of the purchase. The Committee believes that adopting measures that provide guidelines or criteria that allow for an analysis as to when prior planning is required would assure the openness, equity and efficiency of the system in place for the procurement of goods and services. In that regard, the Committee will formulate a recommendation”.*<sup>26</sup>

[114] Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (d) (see recommendation 1.2.3.4 in section 1.2.3 of Chapter II of this Report).

Measure (e) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Establish general standard contracting terms and conditions that are applicable to the various tendering and public purchasing modalities.*

[115] In its Response to the Questionnaire and during the on-site visit, the country under review submitted information and new developments relating to this measure. In this regard, the Committee notes the following as a step that contributes to the implementation thereof:<sup>27</sup>

[116] *“The International Centre for Social Franchising (ICSF) will finance activities that will address critical areas in Suriname’s public procurement system, such as the development of a procurement procedures handbook, standardization of bidding documents, a public procurement portal, system-wide procurement regulations, and training to ensure users become familiar with these tools. Together, they are expected to serve as an important basis for Suriname to make its national procurement system more efficient and cost effective.”*

[117] In connection with this, the Committee notes that during the on-site visit, the representatives of the Ministry of Public Works explained that this project is, in reality, a project of the Inter-American Development Bank (IDB) intended to improve the procurement system in Suriname, and that a Working Group on Public Procurement has been set up, comprising representatives of the Ministry of Public Works, the Ministry of Finance, and the Vice President’s Cabinet to work jointly with the IDB on this project, which officially began to function in February 2017.

[118] It should be noted that the origin of this measure of the recommendation dates back to the Second Round Report, when the Committee formulated the following observation:

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<sup>26</sup> Report on Suriname from the Second Round of Review, pp.15.

<sup>27</sup> Response of Suriname to the Fifth Round Questionnaire, p. 17.

[119] “Fifth, the Committee suggest to the Republic of Suriname to consider the possibility of establishing general or standard specifications containing uniformly applied terms and conditions for the various contracting modalities, whereby it would be possible to establish the rules for evaluation based on more objective and clearer selection criteria. In this regard, the Committee will formulate a recommendation”.<sup>28</sup>

[120] Given the foregoing, the Committee takes note of the actions adopted by the country under review, and for the need to continue to give attention to the implementation thereto (see recommendation 1.2.3.5 in section 1.2.3 of Chapter II of this Report).

[121] It should also be noted that during the on-site visit, the civil society organization *Stiching Projekta* stated that “The IADB is providing assistance to improve public procurement in Suriname.”<sup>29</sup>

Measure (f) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Establish a centralized registry of contractors of works, goods or services, mandatory to all State bodies and dependencies, to foster the principles of openness, equity and efficiency provided for in the Convention, which would also include an appeal mechanism for those contractors who have been denied registration, so they would not be left without recourse.*

[122] The country under review made no reference to this measure of the foregoing recommendation in its Response to the Questionnaire or during the on-site visit.

[123] In this regard, the Committee would like to note that the origin of this measure of the recommendation dates back to the review conducted in the Second Round, when it formulated the following observation:

[124] “Sixth, the Committee observes that, although Section 78 of the General Provisions requires for bidders in open tenders to have a valid contractor’s license and to register in the Commercial Register of the Chamber of Commerce and Industry in Suriname for performing the activities to which the bid relates, there is no centralized Government registry of contractors of works, goods or services, mandatory to all state agencies. The Committee feels that the country under review should consider the advisability of amending the existing legislation in order to create a centralized registry of contractors of works, goods and services, which would also include an appeal mechanism for those contractors who have been denied registration, so they would not be left without recourse. Consideration should be given to making this registry compulsory for all State bodies and dependencies, its purpose being to foster the principles of openness, equity and efficiency provided for in the Convention. In this regard, the Committee will formulate a recommendation.”<sup>30</sup>

[125] Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (f) (see recommendation 1.2.3.6 in section 1.2.3 of Chapter II of this Report).

Measure (g) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

<sup>28</sup> Report on Suriname from the Second Round of Review, pp.15.

<sup>29</sup> See document presented by *Stiching Projekta*. Available at [http://www.oas.org/juridico/english/mesicic5\\_sur.htm](http://www.oas.org/juridico/english/mesicic5_sur.htm)

<sup>30</sup> Report on Suriname from the Second Round of Review, pp.15.

*Implement a mechanism by legislative or administrative means to facilitate the exclusion and/or sanction of certain contractors for stipulated reasons, which would also include an appeal mechanism for those contractors who have been banned or included in the list, so they would not be left without recourse.*

[126] The country under review made no reference to this measure of the foregoing recommendation in its Response to the Questionnaire or during the on-site visit.

[127] In this regard, the Committee would like to note that the origin of this measure of the recommendation dates back to the review conducted in the Second Round, when it formulated the following observation:

[128] *“Seventh, the Committee observes that there is no provision for the central authority to keep a list of contractors who have defaulted in their contracts, whose circumstances may prevent them from contracting with the Government for a certain period of time. The Committee suggests that the country under review considers making the necessary changes to its legislative framework in relation to the procurement of contracts, so such a list may be kept. There could, for example, be provisions outlining the reasons for an intended ban or including the contractor on the list upon consultation with the Board of Ministers or the Board of Tenders and Licenses (ORAG), as appropriate. Also, an appeal mechanism could be put in place for those contractors who have been banned or included on the list, so they would not be left without recourse”.*<sup>31</sup>

[129] Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (g) (see recommendation 1.2.3.7 in section 1.2.3 of Chapter II of this Report).

[130] In addition, during the on-site visit, the civil society organization *Stiching Projekta* stated that *“Suppliers and contractors are not held sufficiently accountable if goods and or services delivered are not to specification. Examples are various building projects that are halted because they were not up to standards”*.<sup>32</sup>

Measure (h) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Implement provisions so all bidders, including the unsuccessful ones, are notified of the results of the bidding process.*

[131] The country under review made no reference to this measure of the foregoing recommendation in its Response to the Questionnaire or during the on-site visit.

[132] In this regard, the Committee would like to note that the origin of this measure of the recommendation dates back to the review conducted in the Second Round, when it formulated the following observation:

[133] *“Eight, regarding the communication of results, it is observed that Section 81 of the General Provisions, states that the principal will communicate in writing to the bidder or bidders whose bids are more acceptable to him that they qualify for the awarding of the contract. Similarly, Section 84,*

<sup>31</sup> Report on Suriname from the Second Round of Review, pp.15.

<sup>32</sup> See document presented by *Stiching Projekta*. Available at [http://www.oas.org/juridico/english/mesicic5\\_sur.htm](http://www.oas.org/juridico/english/mesicic5_sur.htm)

*paragraph 2, states that the bidder to whom the contract has been awarded shall be notified of this by the principal by registered letter. However, no mention is made of notifying the results of the process to unsuccessful bidders. Therefore, and in order to promote the impartiality and transparency of the process, the Republic of Suriname should consider taking the necessary steps so that a measure to ensure that the results of the bidding process are communicated to all bidders, including those who were unsuccessful.”<sup>33</sup>*

[134] Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (h) (see recommendation 1.2.3.8 in section 1.2.3 of Chapter II of this Report).

Measure (i) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Strengthen and expand the scope of use of other forms of publication, including electronic communications, such as the internet for advertising the tender opportunities, status of bids and awards and the progress in the execution of major projects.*

[135] In its Response to the Questionnaire and during the on-site visit, the country under review presented information and new developments regarding this measure. Of these, the Committee notes the following as steps contributing to progress with its implementation:<sup>34</sup>

[136] *“The International Centre for Social Franchising (ICSF) will finance activities that will address critical areas in Suriname’s public procurement system, such as the development of a procurement procedures handbook, standardization of bidding documents, a public procurement portal, system-wide procurement regulations, and training to ensure users become familiar with these tools. Together, they are expected to serve as an important basis for Suriname to make its national procurement system more efficient and cost effective.”*

[137] In addition, the Committee notes that during the on-site visit, the representatives of the Ministry of Public Works explained that this project is, in reality, a project of the Inter-American Development Bank (IDB) intended to improve the procurement system in Suriname, and that a Working Group on Public Procurement has been set up, comprising representatives of the Ministry of Public Works, the Ministry of Finance, and the Vice President’s Cabinet to work jointly with the IDB on this project, which officially began to function in February 2017. They added that the project is to include a web site for Suriname’s goods and services procurement system.

[138] Furthermore, the representatives of the Ministry of Justice and Police (MJP) explained that this IDB project provides for the drafting of a State Contracting Law that would replace the existing legislation, and that the project also includes an electronic system for all stages of public procurement.

[139] It should be noted that the origin of this measure of the recommendation dates back to the Second Round Report, when the Committee formulated the following observation:

[140] *“Ninth, the Committee notices that the General Provisions mention that the invitation to bid must be advertised through publication in the Government Advertiser and, if necessary, also in a manner specified by the Minister. In this regard, it is the view of the Committee that the use of electronic methods*

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<sup>33</sup> Report on Suriname from the Second Round of Review, pp.15.

<sup>34</sup> Response of Suriname to the Fifth Round Questionnaire, p. 17.

*and information systems for government procurement assists in adequately informing the public and ensuring openness. The Committee believes that the Republic of Suriname could consider increasing the use of other means of communication, including electronic media, to provide information regarding procurement, including the status of bids and awards and the progress of major projects. The Republic of Suriname may also wish to consider using an electronic procurement system or electronic bidding in order to carry out the contracting needs of the State. In this regard, the Committee will formulate a recommendation.”<sup>35</sup>*

[141] In this regard, it should be noted that the comments in the previous paragraph gave rise to both measures (h) and (i) of the foregoing recommendation.

[142] Given the foregoing, the Committee takes note of the actions adopted by the country under review, and for the need to continue to give attention to the implementation thereto (see recommendation 1.2.3.9 in section 1.2.3 of Chapter II of this Report).

Measure (j) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Develop and implement electronic procurement systems, so that the acquisition of goods and services may be carried out through those means.*

[143] In its Response to the Questionnaire and during the on-site visit, the country under review submitted information and new developments relating to this measure. In this regard, the Committee notes the following as a step that contributes to the implementation thereof: the joint project with the IDB to strengthen Suriname’s public procurement system referred to in connection with measure (i) of the foregoing recommendation, the objectives of which include the implementation of an electronic system for that purpose, which is to be included in a new draft Public Contracting Law, as explained above.<sup>36</sup>

[144] Given the foregoing, the Committee takes note of the actions adopted by the country under review, and for the need to continue giving attention to the implementation thereto (see recommendation 1.2.3.10 in section 1.2.3 of Chapter II of this Report).

Measure (k) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Implement specific provisions allowing for challenges to the procurement process at the administrative and judicial level, which detail the procedure to be followed by government entities in handling and responding to such challenges and appeals*

[145] The country under review made no reference to this measure of the foregoing recommendation in its Response to the Questionnaire or during the on-site visit.

[146] In this regard, the Committee would like to note that the origin of this measure of the recommendation dates back to the review conducted in the Second Round, when it formulated the following observation:

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<sup>35</sup> Report on Suriname from the Second Round of Review, pp.16.

<sup>36</sup> Response of Suriname to the Fifth Round Questionnaire, p. 17.

[147] *“Tenth, the legislation and guidelines in place are silent in regards to appeal mechanisms that would allow unsuccessful bidders to challenge the result of the bidding process. In order to ensure the principle of fairness provided in the Convention, the Committee will formulate a recommendation.”*<sup>37</sup>

[148] Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (k) (see Recommendation 1.2.3.11 in section 1.2.3 of Chapter II of this Report).

Measure (l) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Develop and implement a system of sanctions for government servants and employees who violate or fail to fulfill the principles and provisions contained in the General Provisions.*

[149] The country under review made no reference to this measure of the foregoing recommendation in its Response to the Questionnaire or during the on-site visit.

[150] In this regard, the Committee would like to note that the origin of this measure of the recommendation dates back to the review conducted in the Second Round, when it formulated the following observation:

[151] *“Eleventh, the legislation in place does not contemplate sanctions for government servants and employees who violate or fail to fulfill the principles and provisions contained in the General Provisions.”*<sup>38</sup>

[152] In connection with this, the Committee also notes that during the Second Round, the country under review reported that *“The Republic of Suriname observes that the Staff Act provides for disciplinary sanctions in Article 61.”* However, this information was submitted after May 22, 2008, which was the deadline set by the Committee of Experts to submit the Response to the Questionnaire and, for that reason, it was not analyzed.<sup>39</sup>

[153] In connection with this, the Committee notes that Article 61 of the Staff Act, to which the country under review referred during the Second Round, covers disciplinary actions related specifically to the dereliction of duty<sup>40</sup> and not sanctions for cases in which civil servants and public employees violate or fail to abide by the principles and provisions set out in the General Provisions for the execution and contracting of projects managed by the Department of Public Works and Transportation of Suriname, which is what this measure of the foregoing recommendation addresses.

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<sup>37</sup> See Second Round Report on Suriname, p. 17.

<sup>38</sup> Report on Suriname from the Second Round of Review, pp.16.

<sup>39</sup> See Second Round Report on Suriname, p. 17, footnote No. 8.

<sup>40</sup> Article 61 of the Staff Act provides as follows: *“A civil servant who is guilty of dereliction of duty may receive the following disciplinary sanctions: (a) declaration of dissatisfaction; (b) reprimand; (c) disciplinary sanction imposing the obligation of providing additional services for two consecutive hours a day for a period of between ten and fifteen days; (d) reduction in leave, of up to half the leave entitlement in a calendar year; (e) sanction consisting of a maximum fine of the equivalent of up to one month’s salary or four times the amount of the weekly wage; (f) wage freeze—consisting of the loss of the right to promotions pursuant to Article 24, paragraph 4, and to regular salary increases—for a period of no more than three years; (g) reduction of salary seniority, consisting of the loss of one or more regular increases; (h) suspension, for a period of no longer than three months; (i) demotion; and (j) dismissal.*

[154] Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (l), which will be reformulated for greater clarity (see Recommendation 1.2.3.12 in section 1.2.3 of Chapter II of this Report).

[155] At the same time, the Committee notes that the current legislation also fails to cover disciplinary sanctions for the civil servants or public employees responsible for the state procurement of goods, works, and services who violate the rules governing those processes that apply to all government agencies; it therefore believes it would be useful for the country under review to consider adopting such provisions. The Committee will formulate a recommendation (see Recommendation 1.2.3.13 in section 1.2.3 of Chapter II of this Report).

Measure (m) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Implement mechanisms responsible for the internal and external audit, control and oversight of the government procurement system and the monitoring of execution of contracts.*

[156] In its Response to the Questionnaire, the country under review made no reference to this measure of the foregoing recommendation.

[157] In this regard, the Committee would like to note that the origin of this measure of the recommendation dates back to the review conducted in the Second Round, when it formulated the following observation:

[158] *“Twelfth, with regard to control mechanisms, the Committee notes that there is no mention of a mechanism for the audit, control and oversight of the procurement system. It is critical to the development of a sound government procurement system for a fully operational and functional external and internal control system”*.<sup>41</sup>

[159] Similarly, during the Second Round, the country under review reported that *“There are control mechanisms, such as the Government Audit Office<sup>42</sup> [Rekenkamer van Suriname] and the Internal Control Section of a Ministry.”* However, this information was submitted after May 22, 2008, which was the deadline set by the Committee of Experts to submit the Response to the Questionnaire and, for that reason, it was not analyzed.<sup>43</sup>

[160] In connection with this, the Committee notes that the country under review provided no information—neither during the Second Round, nor in its Response to the Questionnaire, nor during the on-site visit—about the ministries’ internal control systems specifically responsible for audits, control, and oversight of those institutions public procurement operations.

[161] In addition, as regards the Government Audit Office (hereinafter “Rekenkamer”), the Committee recalls that in the Fourth Round Report, in analyzing how the oversight agencies operate, the Committee formulated the following observation with respect to that body:

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<sup>41</sup> Report on Suriname from the Second Round of Review, pp.16.

<sup>42</sup> Identified in the Fourth Round Report as “the Supreme Audit Institution of Suriname (SAI - *Rekenkamer van Suriname*).”

<sup>43</sup> Report on Suriname from the Second Round of Review, p. 17, footnote No. 9.

[162] *“In this regard, during the on-site visit, representatives of the CLAD mentioned that though its function is internal oversight of state and parastatal institutions and that the task of external oversight belongs to the Supreme Audit Institution [Rekenkamer], in practice this is not what occurs. The reason for this is that the Supreme Audit Institution has no certified accountants or auditors who could perform and endorse audits”*<sup>44</sup>

[163] At the same time, during the on-site visit, the representatives of the Central Government Auditing Bureau (CLAD) said that although their work on internal institutional audits often involves bidding processes, it entails several challenges: information is not always available, since the government agencies do not have effective information storage systems and so the rationales for awarding contracts to suppliers and contractors are not registered, and neither can proper follow-up be performed on the execution of works projects and contracts.

[164] They also noted that the proposals they were preparing as part of the IDB project to draft a new Public Contracting Law included the following: first, the establishment of obligatory audits of bidding projects, depending on the size of the project; second, the introduction of obligatory accounting reports on project execution, so that the CLAD can perform the corresponding follow-up; and third, the adoption of stricter measures for the oversight of invoices, so that project execution can effectively be verified before proceeding with payment.

[165] Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (m), which will be reformulated for greater clarity (see Recommendation 1.2.3.14 in section 1.2.3 of Chapter II of this Report).

[166] In addition, the representatives of the *Institute of Certified Accountants of Suriname* (SUVA) indicated that the CLAD is the internal oversight agency responsible for all government agencies and parastate bodies, but that it only has 37 accountants to service all the institutions of the public administration, which poses challenges to the full performance of its functions.

Measure (n) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Establish an independent body or authority responsible for the administration, control and oversight of the government procurement system.*

[167] In its Response to the Questionnaire, the country under review made no reference to this measure of the foregoing recommendation.

[168] During the on-site visit, however, the country under review submitted information and new developments relating to this measure. In this regard, the Committee notes, as a step that contributes to the implementation thereof, the joint project with the IDB to strengthen Suriname’s public procurement system, referred to in connection with measures (i) and (j) of the foregoing recommendation, which, as reported on that occasion by the representatives of the Ministry of Public Works, includes the drafting of a new Public Contracting Law that is to include the creation of a central body to administer, control, and oversee public procurement processes.

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<sup>44</sup> Report on Suriname from the Fourth Round of Review, paragraph 208.

[169] In this regard, the Committee would like to note that the origin of this measure of the recommendation dates back to the review conducted in the Second Round, when it formulated the following observation:

[170] *“Thirteenth, the Committee notes that there is not an independent body or authority responsible for the administration, control and oversight of the government procurement system. In that regard, the Committee will formulate a recommendation”.*<sup>45</sup>

[171] In consideration of the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (n) (see Recommendation 1.2.3.15 in section 1.2.3 of Chapter II of this Report).

Measure (o) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Implement provisions that facilitate the participation of citizen oversight mechanisms to monitor the execution of contracts where the nature, importance or magnitude so warrants, in particular public works contracts, as well as mechanisms that would ensure access to information and develop accountability exercises so that citizens in general can exercise oversight over the administration’s contract management.*

[172] The country under review made no reference to this measure of the foregoing recommendation in its Response to the Questionnaire or during the on-site visit.

[173] In this regard, the Committee would like to note that the origin of this measure of the recommendation dates back to the review conducted in the Second Round, when it formulated the following observation:

[174] *“Fourteenth, the Committee has no information regarding provisions that allow for the establishment of citizen oversight mechanisms to monitor the execution of contracts where the nature, importance or magnitude so warrants, in particular public works contracts; and that there are no mechanisms that would ensure access to information and develop accountability exercises so that citizens in general would exercise oversight over the administration’s contract management. In this regard, the Committee will formulate a recommendation”.*<sup>46</sup>

[175] Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (o) (see Recommendation 1.2.3.16 in section 1.2.3 of Chapter II of this Report).

[176] Regardless of the foregoing, during the on-site visit the civil society organization *Stiching Projekta* stated that *“No oversight agencies exist to date,”* and that *“The citizens’ initiative does not (yet?) monitor specific contracts and execution of contracts, but is a policy monitoring system, and is looking into including budget monitoring, including research into specific project/ policy interventions and how contracts are implemented and money spent.”*<sup>47</sup>

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<sup>45</sup> Report on Suriname from the Second Round of Review, p. 16.

<sup>46</sup> Report on Suriname from the Second Round of Review, p. 16.

<sup>47</sup> See document presented by *Stiching Projekta*. Available at [http://www.oas.org/juridico/english/mesicic5\\_sur.htm](http://www.oas.org/juridico/english/mesicic5_sur.htm)

Measure (p) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Create a single procurement code that brings together all legal provisions applicable to the procurement of goods, works, and services by the government.*

[177] In its Response to the Questionnaire and during the on-site visit, the country under review submitted information and new developments relating to this measure. In this regard, the Committee notes the following as a step that contributes to the implementation thereof:

[178] *“A working group called “public procurement working group” are drafting legislation on the public procurement law for our country which leads to transparency and effectively budgeting, managing and monitoring Government expenditure. If this legislation is approved, this will be a progress for Suriname in terms of procurement.”*<sup>48</sup>

[179] In this regard, the Committee notes that as previously stated in this Report, during the on-site visit the representatives of the Ministry of Public Works indicated that this working group comprises representatives of the Ministry of Public Works, of the Ministry of Finance, and of the Vice President’s Cabinet, and is intended to work in conjunction with the IDB on a project to improve Suriname’s public procurement system. This project, they added, includes the drafting of a new Public Contracting Law, while the working group began to function in February 2017.

[180] In this regard, the Committee would like to note that the origin of this measure of the recommendation dates back to the review conducted in the Second Round, when it formulated the following observation:

[181] *“Finally, in view of the various legal provisions indicated by the country under review, the Committee feels it would be advisable to suggest to the Republic of Suriname the possibility of issuing a single new public procurement code covering their entire legal system applicable to public procurement, with rules based on general modern principles governing government contracting. In this regard, the Committee will formulate a recommendation.”*<sup>49</sup>

[182] In consideration of the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (p) (see Recommendation 1.2.3.17 in section 1.2.3 of Chapter II of this Report).

## **1.2.2. New Developments with Respect to the provisions of the Convention on Government Systems for the Procurement of Goods and Services**

### **1.2.2.1. New Developments with Respect to the Legal Framework**

[183] In its Response to the Questionnaire, the country under review reported that *“With regard to the purchase of goods and services no statutory regulations have been established after 22 May 2008”*.<sup>50</sup>

[184] However, during the on-site visit, the representatives of the Ministry of Public Works reported that they are working with the Inter-American Development Bank (IDB) on a project to improve Suriname’s

<sup>48</sup> Response of Suriname to the Fifth Round Questionnaire, p. 16.

<sup>49</sup> Report on Suriname from the Second Round of Review, p. 17.

<sup>50</sup> Response of Suriname to the Fifth Round Questionnaire, p. 16.

system for the procurement of goods and services, which includes the drafting of a new Public Contracting Law.

[185] In addition, they said that a working group on public procurement had been established for the purpose, comprising representatives of the Ministry of Public Works, the Ministry of Finance, and the Vice President's Cabinet. The working group began to function in February 2017 in coordination with the IDB.

[186] The Committee has already noted this project and the creation of the working group on public procurement in section 1.2.1 of this Report.

#### **1.2.2.2. New Developments with Respect to Technology**

[187] In its Response to the Questionnaire, the country under review provided information on new technological developments, including the following:

[188] - The implementation in 2016 of the *IFMIS/Free Balance* financial management system in all ministries.<sup>51</sup>

[189] - Since 2011, the CLAD has been using the *Team Mate* audit system to conduct its audits.<sup>52</sup>

#### **1.2.2.3. Results**

[190] Both in its Response to the Questionnaire and during the on-site visit, the country under review provided no information on results.

[191] In view of the foregoing, the Committee believes it would be useful for the country under review to consider keeping statistics, broken down by year, on the number and percentage of contracts awarded through competitive bidding processes and the number and percentage of contracts awarded through other methods, such as direct contracting, or any other contracting method, in order to identify challenges and, if necessary, adopt corrective measures. The Committee will formulate a recommendation (see Recommendation 1.2.3.18 in section 1.2.3 of Chapter II of this Report).

[192] Equally, the Committee believes it would be useful for the country under review to consider keeping statistics, broken down by year, on the number of sanctions imposed on public officials and contractors for breaches of the rules governing public procurement, the number of decisions on the State's contractual responsibility handed down by the courts or other venues such as arbitration tribunals, and the amounts ordered to be paid to the State as a result of suits filed against them in connection with procurement activities (see Recommendation 1.2.3.19 in section 1.2.3 of Chapter II of this Report).

### **1.2.3 Recommendations**

[193] In light of the observations formulated in sections 1.2.1 and 1.2.2, the Committee suggests that the country under review consider the following recommendations:

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<sup>51</sup> Response of Suriname to the Fifth Round Questionnaire, pp. 18 and 19.

<sup>52</sup> Response of Suriname to the Fifth Round Questionnaire, p. 19.

- 1.2.3.1 Provide criteria for what constitutes the expression “in the national interest” used in Article 18 of the Compatibility act. (See paragraphs 94 to 97 in section 1.2.1 of Chapter II of this Report.)
- 1.2.3.2 Adopt legislation to regulate the authority that some public servants have to forego public tendering. (See paragraphs 98 to 102 in section 1.2.1 of Chapter II of this Report.)
- 1.2.3.3 Establish clear and objective criteria for the purposes of evaluating and awarding publicly awarded contracts. (See paragraphs 103 to 110 in section 1.2.1 of Chapter II of this Report.)
- 1.2.3.4 Implement guidelines or criteria that allow for an analysis as to whether the launch of a procurement process requires prior planning sufficiently in advance of the launch of procurement process, such as preparing studies, designs and technical evaluations, and to assess the appropriateness and timeliness of the purchase. (See paragraphs 111 to 114 in section 1.2.1 of Chapter II of this Report.)
- 1.2.3.5 Establish general standard contracting terms and conditions that are applicable to the various tendering and public purchasing modalities. (See paragraphs 115 to 121 in section 1.2.1 of Chapter II of this Report.)
- 1.2.3.6 Establish a centralized registry of contractors of works, goods or services, mandatory to all State bodies and dependencies, to foster the principles of openness, equity and efficiency provided for in the Convention, which would also include an appeal mechanism for those contractors who have been denied registration, so they would not be left without recourse. (See paragraphs 122 to 125 in section 1.2.1 of Chapter II of this Report.)
- 1.2.3.7 Implement a mechanism by legislative or administrative means to facilitate the exclusion and/or sanction of certain contractors for stipulated reasons, which would also include an appeal mechanism for those contractors who have been banned or included in the list, so they would not be left without recourse. (See paragraphs 126 to 130 in section 1.2.1 of Chapter II of this Report.)
- 1.2.3.8 Implement provisions so all bidders, including the unsuccessful ones, are notified of the results of the bidding process. (See paragraphs 131 to 134 in section 1.2.1 of Chapter II of this Report.)
- 1.2.3.9 Strengthen and expand the scope of use of other forms of publication, including electronic communications, such as the internet for advertising the tender opportunities, status of bids and awards and the progress in the execution of major projects. (See paragraphs 135 to 142 in section 1.2.1 of Chapter II of this Report.)
- 1.2.3.10 Develop and implement electronic procurement systems, so that the acquisition of goods and services may be carried out through those means. (See paragraphs 143 to 144 in section 1.2.1 of Chapter II of this Report.)
- 1.2.3.11 Implement specific provisions allowing for challenges to the procurement process at the administrative and judicial level, which detail the procedure to be followed by government entities in handling and responding to such challenges and appeals. (See paragraphs 145 to 148 in section 1.2.1 of Chapter II of this Report.)

- 1.2.3.12 Develop and implement a system of sanctions for government servants and employees who violate or fail to fulfill the principles and provisions contained in the General Provisions for the Execution and Procurement of Projects managed by the Department of Public Works and Transportation of Suriname. (See paragraphs 149 to 154 in section 1.2.1 of Chapter II of this Report.)
- 1.2.3.13 Consider developing and implementing a system of disciplinary sanctions for civil servants and public employees responsible for the State's procurement of goods, works, and services who violate the provisions applicable to those processes in all government agencies. (See paragraph 155 in section 1.2.1 of Chapter II of this Report.)
- 1.2.3.14 Implement mechanisms responsible for the internal and external audit, control and oversight of the government procurement system and the monitoring of execution of contracts. (See paragraphs 156 to 166 in section 1.2.1 of Chapter II of this Report.)
- 1.2.3.15 Establish an independent body or authority responsible for the administration, control and oversight of the government procurement system. (See paragraphs 167 to 171 in section 1.2.1 of Chapter II of this Report.)
- 1.2.3.16 Implement provisions that facilitate the participation of citizen oversight mechanisms to monitor the execution of contracts where the nature, importance or magnitude so warrants, in particular public works contracts, as well as mechanisms that would ensure access to information and develop accountability exercises so that citizens in general can exercise oversight over the administration's contract management. (See paragraphs 172 to 176 in section 1.2.1 of Chapter II of this Report.)
- 1.2.3.17 Create a single procurement code that brings together all legal provisions applicable to the procurement of goods, works, and services by the government. (See paragraphs 177 to 182 in section 1.2.1 of Chapter II of this Report.)
- 1.2.3.18 Keep statistics, broken down by year, on the number and percentage of contracts awarded through competitive bidding processes and the number and percentage of contracts awarded through other methods, such as direct contracting, or any other contracting method, in order to identify challenges and, if necessary, adopt corrective measures. (See paragraphs 190 to 191 in section 1.2.1 of Chapter II of this Report.)
- 1.2.3.19 Keep statistics, broken down by year, on the number of sanctions imposed on public officials and contractors for breaches of the rules governing public procurement, the number of decisions on the State's contractual responsibility handed down by the courts or other venues such as arbitration tribunals, and the amounts ordered to be paid to the State as a result of suits filed against them in connection with procurement activities. (See paragraph 192 in section 1.2.1 of Chapter II of this Report.)

## **2. SYSTEMS FOR PROTECTING PUBLIC SERVANTS AND PRIVATE CITIZENS WHO, IN GOOD FAITH, REPORT ACTS OF CORRUPTION (ARTICLE III, PARAGRAPH 8, OF THE CONVENTION)**

### **2.1. Follow-Up to the Implementation of the Recommendations Formulated in the Second Round**

Recommendation:

*Adopt a comprehensive legal and regulatory framework that provides protection for public servants and private citizens who, in good faith, report acts of corruption, including protection of their identities, in accordance with its Constitution and the basic principles of its domestic legal system*

Measure (a) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Protection for public servants and private citizens who in good faith report acts of corruption, which may be subject to investigation in administrative or judicial proceedings.*

[194] In its Response to the Questionnaire and during the on-site visit, the country under review presented information and new developments regarding this measure. Of these, the Committee notes the following as steps contributing to progress with its implementation:<sup>53</sup>

[195] – The adoption of the Anticorruption Act of September 24, 2017, which, according to its preamble, is intended to establish “*rules for the creation of an Anticorruption Commission entrusted with preventive tasks, the registration of reports of abuses, the mandatory issuance by public officials of written statements concerning income and assets, and further amending of the Criminal Code and the Decree on the Issuance of Domain Land*”.

[196] In this regard, the Committee notes that Article 2, paragraph 1, of this legislation provides that:

[197] “*1. There exists an Anticorruption Commission, hereinafter referred to as “the Commission,” that is entrusted with the prevention and early detection of abuses within state institutions, and with protecting persons reporting abuses and passing reports on to the Procurator-General*”

[198] Similarly, Article 8 of the Anticorruption Act, “*Protection of persons who report abuse,*” provides, in paragraphs 1 to 5, that:

[199] “*1. Anyone who is or was involved in the processing of a report must not reveal the identity of the person reporting, except in cases where the person reporting has given his or her express consent thereto.*

[200] “*2. If the person reporting is an employee, he or she will not suffer adverse consequences as a result of the report in the form of measures or decisions by the employer or the competent authority that have or could have adverse consequences for his or her legal position and/or in the exercise of his or her function, to the extent that a measure or decision relating to legal position is reasonably related to the submitted report or reasonably could be related thereto.*

[201] “*For the application of the provisions of this paragraph, employee is understood to mean a party who, by virtue of appointment or employment contract governed by public law performs or has performed work under the provisions of civil law. Also considered employees are interns, trainees and apprentices, volunteers, temps provided by an intermediary, personnel on loan from another institution, and persons working on an on-call basis.*

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<sup>53</sup> Response of Suriname to the Fifth Round Questionnaire, p. 19.

[202] “3. *Measures taken or decisions made by the employer or competent authority that have or could have adverse consequences for the legal position of the person reporting are null and void by operation of law.*

[203] “4. *The person reporting is entitled to pro bono legal aid if, as a result of good-faith reporting of a suspicion of abuse, he or she suffers adverse consequences for his or her legal position as referred to in paragraphs 2 and 3.*

[204] “5. *The person reporting is not liable for harm suffered by a third party as a result thereof, subject to establishment in law otherwise.*

[205] “6. *The members of the Commission who fulfill another function in addition to membership in the Commission may not suffer adverse influence on their legal position with respect to the fulfillment of the other function, to the extent that such influence is or could be reasonably related to membership in the Commission. The provisions of paragraphs 2 through 5 apply to them mutatis mutandis.”*

[206] In connection with this, the Committee takes note of the step taken for the implementation of measure (a) of the foregoing recommendation and of the need for the country under review to continue to give attention to its implementation, for the reasons outlined below:

[207] First of all, the Committee notes that all the measures of the foregoing recommendation, from (a) to (i), identify characteristics that could be included in a comprehensive legal and regulatory framework to protect public servants and private citizens who, in good faith, report acts of corruption, and that although regulations containing some protective measures have been adopted, such as the Anticorruption Act, a comprehensive legal framework with the characteristics and protections referred to in this chapter’s single recommendation, should be considered.

[208] In that regard, the Committee also notes that the country under review, in its Response to the Questionnaire, states that: *“The lack of active monitoring and absence of whistleblower law which enable people to report misbehaviors of civil servants without fear for repercussions are major weaknesses.”*<sup>54</sup>

[209] In connection with this, the Committee notes that although Article 8 of Suriname’s Anticorruption Act provides certain protective measures for people reporting acts of corruption and that although Article 2 of the Anticorruption Act states that the Anticorruption Commission’s functions include, *inter alia*, *“protecting persons who report abuse,”* it does not elaborate on how the Commission is to enforce that.

[210] In addition, the Committee also notes that during the on-site visit, the representatives of the Public Prosecutions Department (PPD) and of the Ministry of Justice and Police (MJP) explained that the appointment of the members of the Anticorruption Commission was an essential condition for implementing the Anticorruption Act, but that this process had not yet concluded.

[211] In this regard, the Committee would like to note that the origin of this recommendation dates back to the Second Round Report, when it formulated the following observations:<sup>55</sup>

[212] ***“2.1. Existence of provisions in the legal framework and/or other measures***

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<sup>54</sup> Response of Suriname to the Fifth Round Questionnaire, p.p. 10 to 11.

<sup>55</sup> Report on Suriname from the Second Round of Review, p. 18.

[213] *“The Republic of Suriname, in its reply to the Questionnaire, states that there is no specific legislation related to systems for protecting public servants and private citizens who, in good faith, report acts of corruption. The country under review does have a set of measures and provisions related to the protection of the identity of threatened witnesses in judicial criminal cases, such those established in article 206 of the Criminal Code, paragraphs (a), (c), (d), (e) and (f).”*

[214] **“2.2. Adequacy of the legal framework and/or other measures**

[215] *“Taking into account the previous section, it is not appropriate to make observations in this regard as there is no formal legislative regime in place for the protection of public servants and private citizens who, in good faith, report acts of corruption. Though there are regulations in place for the protection of the identity of threatened witnesses related to criminal proceedings, the Committee will formulate recommendations that it deems advisable for the Republic of Suriname to consider, in accordance with Article III(8) of the Convention, in establishing systems for protection public servants and private citizens who, in good faith, report acts of corruption”.*

[216] In light of all the foregoing, the Committee takes note of the steps taken by the country under review to implement this recommendation and of the need for it to continue to give attention to the implementation of measure (a). At the same time, it also reiterates the sole recommendation, for which purpose consideration could be given to the criteria set out in the *“Model Law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses,”* available on the Anticorruption Portal of the Americas,<sup>56</sup> and it believes the recommendation should be reformulated in the interest of greater clarity (see Recommendation 2.4.1(a) in section 2.4 of Chapter II of this Report).

[217] Similarly, the Committee notes that during the on-site visit, the remarks made by the civil society organization *Stiching Projekta* included the following:

[218] – *“Although the Anticorruption Act was approved recently, there have been no steps taken in order to adopt comprehensive legislation for the protection of whistleblowers and acts of corruption. However, in the approved version of the Anticorruption Act, some provisions have been made for whistleblower protection. However, the case of Surinam Airways recently, gives reason to believe that there is a move to persecute whistleblowers”;* and

[219] – *“There are no NEW mechanisms for protection implemented in the past years (a few existed earlier), although the recently adopted Act does provide for whistleblower protection”;* y

[220] – *“As far as we know, no steps have been taken to implement the recently adopted Anticorruption Act, there are no steps to be seen to indicate that the Anticorruption commission is being set up.”*<sup>57</sup>

Measure (b) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Measures to protect not only the physical integrity of whistleblowers and their families, but also to provide protection in the workplace, especially when the person is a public official and the acts of corruption involve his superior or co-workers.*

<sup>56</sup> Available at [http://www.oas.org/juridico/spanish/ley\\_denuncia.htm](http://www.oas.org/juridico/spanish/ley_denuncia.htm)

<sup>57</sup> See document presented by *Stiching Projekta*. Available at [http://www.oas.org/juridico/english/mesicic5\\_sur.htm](http://www.oas.org/juridico/english/mesicic5_sur.htm)

[221] In its Response to the Questionnaire, the country under review submitted information and new developments relating to this measure. In this regard, the Committee notes the following as a step that contributes to the implementation thereof:<sup>58</sup>

[222] – The adoption of the Anticorruption Act of September 24, 2017, Article 8, paragraphs 2 and 3, of which provide as follows:

[223] “2. *If the person reporting is an employee, he or she will not suffer adverse consequences as a result of the report in the form of measures or decisions by the employer or the competent authority that have or could have adverse consequences for his or her legal position and/or in the exercise of his or her function, to the extent that a measure or decision relating to legal position is reasonably related to the submitted report or reasonably could be related thereto.*

[224] “*For the application of the provisions of this paragraph, employee is understood to mean a party who, by virtue of appointment or employment contract governed by public law performs or has performed work under the provisions of civil law. Also considered employees are interns, trainees and apprentices, volunteers, temps provided by an intermediary, personnel on loan from another institution, and persons working on an on-call basis.*

[225] “3. *Measures taken or decisions made by the employer or competent authority that have or could have adverse consequences for the legal position of the person reporting are null and void by operation of law.*

[226] In connection with this, the Committee takes note of the step taken for the implementation of measure (b) of the foregoing recommendation and of the need for the country under review to continue to give attention to its implementation, for the reasons outlined below:

[227] First of all, as regards the implementation of the elements covered by this measure (b) of the foregoing recommendation, the Committee notes that although the Anticorruption Act establishes protective measures in the workplace as indicated in paragraphs 2 and 3 of Article 8, cited above, it is silent on measures to protect the physical integrity of whistleblowers and their families.

[228] In addition, the Committee also notes that during the on-site visit, the representatives of the Public Prosecutions Department (PPD) and of the Ministry of Justice and Police (MJP) explained that the appointment of the members of the Anticorruption Commission was an essential condition for implementing the Anticorruption Act, but that this process had not yet concluded.

[229] Given the foregoing, and regardless of the recommendations that may be formulated following the analysis of the Anticorruption Act, the Committee takes note of the steps taken by the country under review to implement the foregoing recommendation and of the need for it to continue to give attention to the implementation of measure (b) thereof (see Recommendation 2.4.1(b) in section 2.4 of Chapter II of this Report).

[230] Second, the Committee notes that paragraph 2 of Article 8 states that if the whistleblower is an employee, he or she must not suffer workplace or judicial reprisals as a consequence of lodging a complaint. However, it does not elaborate on how whistleblowers are to be protected against such reprisals, on where denunciations of any such acts of hostility are to be lodged, on the procedure for

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<sup>58</sup> Response of Suriname to the Fifth Round Questionnaire, p. 19.

requesting the enactment of precautionary measures in such cases, or on the authority responsible for enacting and implementing them.

[231] Given the foregoing, the Committee believes it would be useful for the country under review to consider adopting the amendments necessary to develop and regulate the forms of protection established in Article 8, paragraph 2, of the Anticorruption Act, in order to clearly define how whistleblowers are to be protected against reprisals or hostility in the workplace, the body charged with receiving allegations of acts of hostility or workplace reprisals made for lodging a complaint, the procedure for requesting the enactment of precautionary measures to prevent, halt, or render harmless such hostility or reprisals, and the authority responsible for enacting and implementing them. The Committee will formulate a recommendation in this regard (see Recommendation 2.4.2 in section 2.4 of Chapter II of this Report.)

[232] Third, the Committee notes that the aforesaid paragraph 2 of Article 8 of the Anticorruption Act only protects employees against reprisals arising from decisions taken by employers or competent authorities who could be directly harmed at a court of law or employment tribunal as a result of the lodging of the complaint, and that it fails to take into consideration the possibility of those decisions or hostile acts being made through an intermediary and not directly by the employer or competent authority named in the complaint. The Committee therefore believes it would be useful for the country under review to consider amending Article 8, paragraph 2, of the Anticorruption Act, so that the protection provided for in the Act against acts of hostility or reprisals may be extended when such reprisals are related to the lodging of the complaint regardless of whether the person responsible for the reprisals is or is not the employer or competent authority directly affected by the complaint. The Committee will formulate a recommendation (see Recommendation 2.4.3 in section 2.4 of Chapter II of this Report)

[233] Finally, the Committee notes that Article 8, paragraph 3, of the Anticorruption Act provides that *“Measures or decisions adopted by the employer or competent authority that could lead to legal harm for the whistleblower shall be void of effect in accordance with law.”* However, the Committee notes that the legislation does not elaborate on the procedure for requesting the annulment of such measures or decisions, on the authority to whom such requests are to be presented, on the procedure to be followed, on the solutions available in the event that the reprisals have already been taken and have already had consequences, and, when applicable, on the compensatory measures for affected whistleblowers and on the sanctions for those responsible. The Committee therefore believes it would be useful for the country under review to consider adopting the amendments necessary to regulate the provision in this way and, to that end, it will formulate a recommendation (see Recommendation 2.4.4 in section 2.4 of Chapter II of this Report)

Measure (c) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Mechanisms for reporting, such as anonymous reporting or protection of identity reporting, that guarantee the personal security and the confidentiality of the identity of public servants and private citizens who in good faith report acts of corruption.*

[234] In its Response to the Questionnaire, the country under review presented information and new developments regarding this measure. Of these, the Committee notes the following as a step contributing to progress with its implementation:<sup>59</sup>

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<sup>59</sup> Response of Suriname to the Fifth Round Questionnaire, p. 19.

[235] – The adoption of the Anticorruption Act of September 24, 2017, Article 8, paragraph 1, of which provides that *“Anyone who is or was involved in the processing of a report must not reveal the identity of the person reporting, except in cases where the person reporting has given his or her express consent thereto.”*

[236] In connection with this, the Committee takes note of the step taken for the implementation of measure (c) of the foregoing recommendation and of the need for the country under review to continue to give attention to its implementation, for the reasons outlined below:

[237] First of all, the Committee notes that although Article 8, paragraph 1, of the Anticorruption Act contains a confidentiality provision for the person or authority responsible for receiving and processing the complaint, it does not stipulate the procedures for ensuring the personal security and confidentiality of either public servants or private citizens who, in good faith, report acts of corruption, such as, for example, the implementation of a register of people with reserved identities, using special numerical codes to identify whistleblowers, and the implementation of a chronological register of the people involved in processing confidentially presented allegations, who would be prevented from revealing or allowing access to both the whistleblower’s identity and to any confidential information that could endanger such whistleblowers and/or witnesses and, when applicable, their families.

[238] Similarly, the Committee notes that neither in its Response to the Questionnaire nor during the on-site visit did the country under review provide information on the existence of a program for the protection of corruption whistleblowers within its criminal justice system.

[239] In addition, the Committee also notes that during the on-site visit, the representatives of the Public Prosecutions Department (PPD) and of the Ministry of Justice and Police (MJP) explained that the appointment of the members of the Anticorruption Commission was an essential condition for implementing the Anticorruption Act, but that this process had not yet concluded.

[240] Regardless of the recommendations that may be formulated following the review of the Anticorruption Act, the Committee takes note of the steps taken by the country under review to implement the foregoing recommendation and of the need for it to continue to give attention to the implementation of measure (c) thereof (see Recommendation 2.4.1(c) in section 2.4 of Chapter II of this Report)

Measure (d) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Mechanisms to report any threats or reprisals against whistleblowers, stating the appropriate authorities to process protection requests and the bodies responsible for providing it.*

[241] In its Response to the Questionnaire, the country under review furnished the following information:

[242] – *“The adoption and entry into force of the Anticorruption Act in October 2017<sup>60</sup> (SB2017#85).*

[243] – *“Article 8 of this Act has 6 paragraphs regulating the protection of a person who reports an act of corruption.”*

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<sup>60</sup> On July 24, 2018, the country under review stated that while the Anticorruption Act had been published in October, 2017, its entry in force was November, 2017.

[244] In connection with this, the Committee notes that although the Anticorruption Act identifies the Anticorruption Commission as one body for receiving abuse allegations, it is silent about the mechanisms for reporting threats or reprisals made against whistleblowers as a result of their complaints, about the authorities responsible for receiving and processing such protection requests, and about the bodies responsible for providing that protection.

[245] Similarly, the Committee also notes that during the on-site visit, the representatives of the Public Prosecutions Department (PPD) and of the Ministry of Justice and Police (MJP) explained that the appointment of the members of the Anticorruption Commission was an essential condition for implementing the Anticorruption Act, but that this process had not yet concluded.

[246] Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (d) (see Recommendation 2.4.1(d) in section 2.4 of Chapter II of this Report)

Measure (e) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Witness protection mechanisms that provide the same guarantees to both public servants and private citizens.*

[247] In its Response to the Questionnaire, the country under review furnished the following information:

[248] – “*The adoption and entry into force of the Anticorruption Act in October 2017 (SB2017#85).*”

[249] – “*Article 8 of this Act has 6 paragraphs regulating the protection of a person who reports an act of corruption.*”<sup>61</sup>

[250] In connection with this, the Committee notes that the Anticorruption Act provides no mechanisms for protecting witnesses, and that during the on-site visit the country under review provided no information about the existence of a witness protection program within its criminal justice system.

[251] Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (e) (see Recommendation 2.4.1(e) in section 2.4 of Chapter II of this Report)

Measure (f) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Mechanisms that facilitate international cooperation on the foregoing matters, when appropriate, including the technical assistance and cooperation provided for by the Convention, as well as the exchanges of experiences, training, and mutual assistance.*

[252] In its Response to the Questionnaire, the country under review furnished the following information:

[253] – “*The adoption and entry into force of the Anticorruption Act in October 2017 (SB2017#85).*”

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<sup>61</sup> Response of Suriname to the Fifth Round Questionnaire, p. 19.

[254] – “Article 8 of this Act has 6 paragraphs regulating the protection of a person who reports an act of corruption.”<sup>62</sup>

[255] In connection with this, the Committee notes that although Article 4, paragraph (g), of the Anticorruption Act provides that “in coordination with the Minister, to maintain contacts with international authorities specializing in the field of preventing and combating corruption, including for the sake of financing projects,” the legislation is silent as regards mechanisms for facilitating international cooperation for the protection of corruption whistleblowers, including the technical assistance and cooperation provided for in the Convention, along with exchanges of experiences, training, and mutual assistance specifically for protecting such whistleblowers.

[256] Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (f) (see Recommendation 2.4.1(f) in section 2.4 of Chapter II of this Report)

Measure (g) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*A simple whistleblower protection application process.*

[257] In its Response to the Questionnaire, the country under review furnished the following information:

[258] – “The adoption and entry into force of the Anticorruption Act in October 2017 (SB2017#85).

[259] – “Article 8 of this Act has 6 paragraphs regulating the protection of a person who reports an act of corruption.”<sup>63</sup>

[260] In connection with this, the Committee notes that the Anticorruption Act does not elaborate on the procedure to be followed to protect corruption whistleblowers.

[261] Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (g) (see Recommendation 2.4.1(g) in section 2.4 of Chapter II of this Report)

Measure (h) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Provisions which sanction the failure to observe the rules and/or duties relating to protection, stating the appropriate authorities to process protection requests and the bodies responsible for providing it.*

[262] In its Response to the Questionnaire and during the on-site visit, the country under review presented information and new developments related to the foregoing measure. Of these, the Committee notes the following as a step contributing to progress with its implementation: the adoption of the Anticorruption Act of September 24, 2017, Article 17, paragraph 4, of which provides the following sanction:<sup>64</sup>

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<sup>62</sup> Response of Suriname to the Fifth Round Questionnaire, p. 19.

<sup>63</sup> Response of Suriname to the Fifth Round Questionnaire, p. 19.

<sup>64</sup> Response of Suriname to the Fifth Round Questionnaire, p. 19.

[263] “Violations of the provisions of paragraphs 3 and 4 of Article 4,<sup>65</sup> of paragraphs 1 and 2 of Article 8,<sup>66</sup> of paragraph 3 of Article 13,<sup>67</sup> and violations of other regulations or obligations imposed by or pursuant to this Act shall be punishable by a fine of the third category<sup>68</sup>.”

[264] In connection with this, the Committee notes that this is the only sanction provided for in the Anticorruption Act, and it stipulates that a person responsible for processing an allegation of abuse who reveals a whistleblower’s identity shall be punished solely with a fine. The Committee notes that this fine is not even the highest category and that there is no other form of responsibility for violating a whistleblower’s confidentiality. On this point, the Committee notes that this sanction is in no way in proportion to the potential harm that could arise from violating whistleblowers’ confidentiality, which could endanger their lives and persons and that of their families and, in some cases, their jobs.

[265] In light of the foregoing, the Committee takes note of the steps taken by the country under review to implement the foregoing recommendation and of the need to continue to give additional attention to the implementation of measure (h), which it believes should be reformulated to reflect the remarks made above (see Recommendation 2.4.1(h) in section 2.4 of Chapter II of this Report)

[266] In addition to the above, the Committee believes it would be useful for the country under review to consider assessing the relevance and scope of the sanction that Article 16 provides for revealing the identity of a corruption whistleblower so that the sanction is in proportion to the seriousness of the offense. The Committee will formulate a recommendation (see Recommendation 2.4.5 in section 2.4 of Chapter II of this Report)

Measure (i) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*The respective competence of judicial and administrative authorities with respect to whistleblower protection, clearly distinguishing one from the other.*

[267] The country under review made no reference to this measure of the foregoing recommendation in its Response to the Questionnaire or during the on-site visit.

[268] Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (i) (see Recommendation 2.4.1(i) in section 2.4 of Chapter II of this Report)

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<sup>65</sup> Article 4, paragraphs 3 and 4, of the Anticorruption Act provide, respectively, that:

3. “Any person who, in keeping with Article 2, paragraph (c), is called upon to appear before the Commission is obliged to obey that summons and to cooperate with the Commission.”

4. “The government agencies or civil servants referred to in Article 2, paragraph (d), are obliged to furnish the Commission with the information requested.”

<sup>66</sup> Emphasis added.

<sup>67</sup> Article 13, paragraph 3, of the Anticorruption Act provides that:

3. “When there is a clear family relationship between the competent civil servant and the person on whom a right has been conferred or with whom a contract has been signed, the civil servant shall add a declaration of conflict of interest to the decision or to the contract on the independence and objectivity of the decision-making process and the absence of any (appearance of) favoritism. The standard declaration of absence of conflicts of interest is established by the decision of the State.”

<sup>68</sup> On July 24, 2018, the country under review informed that a fine of the third category was SRD25,000, which at that date was the equivalent of approximately US\$3,352.00.

## 2.2 New Developments with Respect to the Provision of the Convention on Systems for Protecting Public Servants and Private Citizens Who, in Good Faith, Report Acts of Corruption

[269] The Committee was presented with information on the following new developments in this area, regarding which it will formulate the relevant observations and recommendations:

### 2.2.1 New Developments with respect to the Legal Framework

#### a) Scope

[270] – The enactment of the Anticorruption Act of September 24, 2017, published in Official Gazette No. 85,<sup>69</sup> which creates the Anticorruption Commission, Article 8 of which offers protective measures for good-faith corruption whistleblowers and the preamble of which states that its purpose is to establish “*to establish rules for the creation of an Anticorruption Commission entrusted with preventive tasks, the registration of reports of abuses<sup>70</sup>, the mandatory issuance by public officials of written statements concerning income and assets, and further amending of the Criminal Code and the Decree on the Issuance of Domain Land*”.

[271] Article 2, paragraph 1, provides that: “*1. There exists an Anticorruption Commission, hereinafter referred to as “the Commission,” that is entrusted with the prevention and early detection of abuses within state institutions, and with protecting persons reporting abuses and passing reports on to the Procurator-General*”

[272] Article 4, sections 1 and 2, establish that:

[273] “*1. The tasks of the Commission are:*

[274] “*a) to periodically provide instructions and directives to state institutions on the prevention of corruption, to screen state institutions on their compliance with said instructions and directives, and to periodically report on such matters to the National Assembly and the Government;*

[275] “*b) to provide state institutions with solicited and unsolicited advice on promoting integrity and compliance within the organization and to take measures that discourage the chance of abuses:*

[276] “*c) to follow and analyze developments in the field of preventing and combating corruption, both regionally and internationally, and on the basis thereof to deliver opinions to the Minister on a national anticorruption strategy;*

[277] “*d) to anticipate new regulations on combating corruption and to deliver opinions to state institutions in that regard;*

[278] “*e) to present integrity codes for public officials to the Government and to relevant administrative bodies;*

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<sup>69</sup> Available at: [http://www.oas.org/juridico/english/mesicic5\\_sur.htm](http://www.oas.org/juridico/english/mesicic5_sur.htm)

<sup>70</sup> The Anticorruption Law, in paragraph j) of the “Definitions” section, states that abuse is “*any conduct, act, fact, or circumstance that does or can give rise to corruption or corrupt practices or on the basis of which corruption or corrupt practices could be considered present.*”

[279] “*f) to coordinate and support information, training, and education regarding the prevention of corruption in the broadest sense;*

[280] “*g) in coordination with the Minister, to maintain contacts with international authorities specializing in the field of preventing and combating corruption, including for the sake of financing projects;*

[281] “*h) to manage the register of receipts referred to in Article 9, paragraph 1*”.<sup>71</sup>

[282] “*2. The Commission is authorized:*

[283] “*a) to receive and register reports of abuses, for forwarding to the Procurator-General with the request that their processing be taken over. In addition, all documents and information received by the Commission with the report are transferred to the Procurator-General;*

[284] “*b) within the framework of the preventive tasks, upon request or at its own initiative, to perform investigations within state institutions concerning their compliance with the instructions and directives referred to in paragraph 1, subparagraph a, and to evaluate the organizational structures, processes, and procedures for their sensitivity to abuses; within this framework, the Commission is authorized to engage in local orientation;*

[285] “*c) to summon and examine public officials and relevant persons or authorities in connection with the provisions of paragraph 1, subparagraph b. The written report of the examination is signed by the chair following adoption by the Commission;*

[286] “*d) to request from state institutions and/or public officials documents and information needed or desired for the auditing and investigation referred to in subparagraph b and to examine witnesses under oath in this regard; the chair is authorized to administer the oath.*”

[287] Article 8, “*Protection of persons who report abuse,*” provides, in paragraphs 1 to 6, that:

[288] “*1. Anyone who is or was involved in the processing of a report must not reveal the identity of the person reporting, except in cases where the person reporting has given his or her express consent thereto.*

[289] “*2. If the person reporting is an employee, he or she will not suffer adverse consequences as a result of the report in the form of measures or decisions by the employer or the competent authority that have or could have adverse consequences for his or her legal position and/or in the exercise of his or her function, to the extent that a measure or decision relating to legal position is reasonably related to the submitted report or reasonably could be related thereto.*

[290] “*For the application of the provisions of this paragraph, employee is understood to mean a party who, by virtue of appointment or employment contract governed by public law performs or has performed work under the provisions of civil law. Also considered employees are interns, trainees and apprentices,*

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<sup>71</sup> Article 9 of the Anticorruption Law refers to the mandatory statements of income and assets, and paragraph 1 states that: “*The public officials mentioned below have the obligation to provide a true statement of their personal income and assets, with an indication of their sources and, where applicable, the nominal value of shares and interests in legal entities and goods delivered to legal entities, and to hand in custody of a civil-law notary according to a standard form to be determined by State decree pursuant to paragraph 5...*”

*volunteers, temps provided by an intermediary, personnel on loan from another institution, and persons working on an on-call basis.*

[291] “3. *Measures taken or decisions made by the employer or competent authority that have or could have adverse consequences for the legal position of the person reporting are null and void by operation of law.*

[292] “4. *The person reporting is entitled to pro bono legal aid if, as a result of good-faith reporting of a suspicion of abuse, he or she suffers adverse consequences for his or her legal position as referred to in paragraphs 2 and 3.*

[293] “5. *The person reporting is not liable for harm suffered by a third party as a result thereof, subject to establishment in Court otherwise.*

[294] “6. *The members of the Commission who fulfill another function in addition to membership in the Commission may not suffer adverse influence on their legal position with respect to the fulfillment of the other function, to the extent that such influence is or could be reasonably related to membership in the Commission. The provisions of paragraphs 2 through 5 apply to them mutatis mutandis”*

[295] Article 16, paragraph 4, states that: “*Violations of the provisions of paragraphs 3 and 4 of Article 4,<sup>72</sup> of paragraphs 1 and 2 of Article 8, of paragraph 3 of Article 13,<sup>73</sup> and violations of other regulations or obligations imposed by or pursuant to this Act shall be punishable by a fine of the third category.*”

b) Observations:

[296] The Committee would like to acknowledge the new regulatory developments in the country under review for continued progress with creating, maintaining, and strengthening its systems for the protection of public officials and private citizens who, in good faith, report acts of corruption as referred to in Article III, paragraph 8, of the Convention.

[297] Nevertheless, it believes it would be beneficial to offer some remarks about the usefulness of expanding, developing, and/or amending certain provisions contained in those new developments, without prejudice to the comments offered by the Committee in section 2.1 above in connection with the follow-up on the implementation of the recommendations that were formulated for the country under review in the Second Round Report

[298] First of all, the Committee notes that Article 2, paragraph 1, of the Anticorruption Act provides for the establishment of an Anticorruption Commission (hereinafter “the Commission”), to be entrusted with

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<sup>72</sup> Article 4, paragraphs 3 and 4, of the Anticorruption Act provide, respectively, that:

3. “*Any person who, in keeping with Article 2, paragraph (c), is called upon to appear before the Commission is obliged to obey that summons and to cooperate with the Commission.*”

4. “*The government agencies or civil servants referred to in Article 2, paragraph (d), are obliged to furnish the Commission with the information requested.*”

<sup>73</sup> Article 13, paragraph 3, of the Anticorruption Act provides that:

3. “*When there is a clear family relationship between the competent civil servant and the person on whom a right has been conferred or with whom a contract has been signed, the civil servant shall add a declaration of conflict of interest to the decision or to the contract on the independence and objectivity of the decision-making process and the absence of any (appearance of) favoritism. The standard declaration of absence of conflicts of interest is established by the decision of the State.*”

*“the prevention and early detection of abuses within state institutions, and with protecting persons reporting abuses and passing reports on to the Procurator-General”*, while the following paragraphs indicate the Commission’s composition and the way in which its members are to be appointed.

[299] However, the Committee also notes that during the on-site visit, the representatives of the Public Prosecutions Department (PPD) and of the Ministry of Justice and Police (MJP) explained that the appointment of the members of the Anticorruption Commission was an essential condition for implementing the Anticorruption Act, but that this process had not yet concluded.

[300] Given the foregoing, and so that the Anticorruption Act can be implemented, the Committee believes it would be useful for the country under review to consider establishing the Anticorruption Commission as promptly as possible, to which end it could adopt a calendar with deadlines for appointing the members of the Anticorruption Commission and for the start of its operations, and equipping the Commission with the human and budgetary resources needed to ensure the full performance of its functions, within the available resources. The Committee will formulate recommendations on these points (see Recommendations 2.4.6, 2.4.7 and 2.4.8 in section 2.4 of Chapter II of this Report)

[301] Similarly, the Committee notes that during the on-site visit, the remarks made by the civil society organization *Stiching Projekta* included the following:

[302] – *“Although the Anticorruption Act was approved recently, there have been no steps taken in order to adopt comprehensive legislation for the protection of whistleblowers and acts of corruption. However, in the approved version of the Anticorruption Act, some provisions have been made for whistleblower protection. However, the case of Surinam Airways recently, gives reason to believe that there is a move to persecute whistleblowers”*;

[303] – *“There are no NEW mechanisms for protection implemented in the past years (a few existed earlier), although the recently adopted Act does provide for whistleblower protection”*; and

[304] – *“As far as we know, no steps have been taken to implement the recently adopted Anticorruption Act, there are no steps to be seen to indicate that the Anticorruption commission is being set up.”*<sup>74</sup>

[305] Second, while the Committee recognizes the importance of the progress made with the enactment of the Anticorruption Act, Article 8 of which offers some protective measures for good-faith corruption whistleblowers, it also notes that the legislation does not establish the procedures through which that protection is to be extended, nor has it enacted the Regulations to the Anticorruption Act developing those procedures.<sup>75</sup>

[306] In light of the comments made above, and without prejudice to the recommendations offered in section 2.1, the Committee believes it would be useful for the country under review to consider enacting the Regulations to the Anticorruption Act in order to regulate the implementation of the protective measures for good-faith corruption whistleblowers set out in Article 8 of the Anticorruption Act, for which purpose it could take into consideration the criteria established in the *“Model Law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses”*<sup>76</sup> adopted

<sup>74</sup> See document presented by *Stiching Projekta*. Available at [http://www.oas.org/juridico/english/mesicic5\\_sur.htm](http://www.oas.org/juridico/english/mesicic5_sur.htm)

<sup>75</sup> On September 7, 2018, during the Subgroup meeting, the country under review informed that it was working on a Whistleblowers Act, as well as regulations for the Anticorruption Act.

<sup>76</sup> Available at [http://www.oas.org/juridico/PDFs/ley\\_modelo\\_proteccion.pdf](http://www.oas.org/juridico/PDFs/ley_modelo_proteccion.pdf)

by the Committee, which is available on the Anticorruption Portal of the Americas. The Committee will formulate a recommendation (see Recommendation 2.4.9 in section 2.4 of Chapter II of this Report).

[307] Third, the Committee notes that paragraph 4 of Article 8 provides that “4. *The person reporting is entitled to pro bono legal aid if, as a result of good-faith reporting of a suspicion of abuse, he or she suffers adverse consequences for his or her legal position as referred to in paragraphs 2 and 3.* However, the Committee would like to point out that to obtain free legal representation, whistleblowers would first be required to demonstrate they have suffered harm in the workplace as a result of lodging a corruption complaint, regardless of the fact that a whistleblower might require legal representation from the moment that a threat of harm first emerges—such as that of losing his or her job—and not only following the fact.

[308] In connection with this, the Committee believes it would be useful for the country under review to consider revising Article 8, paragraph 4, of the Anticorruption Act, so that free legal representation for corruption whistleblowers can also be granted by the competent authority as a precautionary measure to avoid reprisals related to the filing of a complaint and not subsequently thereto. The Committee will formulate a recommendation (see Recommendation 2.4.10 in section 2.4 of Chapter II of this Report).

[309] Similarly, the Committee notes that the Anticorruption Act does not have a provision to determine whether the principle of the presumption of good faith is being observed in order to extend the protection it offers to corruption whistleblowers; this could place the burden of proof on the whistleblowers, requiring them to demonstrate their good faith prior to receiving any form of protection.

[310] In this regard, the Committee believes it would be useful for the country under review to incorporate in its legislation the “presumption of good faith” concept, to which end it could make use of the definition contained in the “*Model Law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses,*”<sup>77</sup> available on the Anticorruption Portal of the Americas, where the good faith of all corruption whistleblowers and witnesses is assumed in administrative and/or criminal matters and can only be reverted by evidence to the contrary presented in the proceedings involving the whistleblower or witness in question and examined in accordance with general standards. The Committee will formulate a recommendation (see Recommendation 2.4.11 in section 2.4 of Chapter II of this Report)

[311] Finally, the Committee notes that Article 8, paragraph 5, of the Anticorruption Act provides that “*The informer is not liable for damage that a third party suffers as a result, unless determined otherwise by the Court*”. In connection with this, the Committee notes that it is not clear what exceptions the law would provide in relation to the responsibility of an informer for harm suffered by a third party as the result of the complaint filed. Accordingly, the Committee believes it would be useful for the country under review to consider revising and clarifying the scope of this provision in the appropriate regulation, so that it is no more onerous than the responsibility for harm to third parties provided for in general legislation and does not serve to discourage public officials and private citizens from reporting acts of corruption out of fear of such consequences. The Committee will formulate a recommendation (see Recommendation 2.4.12 in section 2.4 of Chapter II of this Report)

### **2.3 Results**

[312] The country under review presented no results either in its Response to the Questionnaire or during the on-site visit.

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<sup>77</sup> Available at [http://www.oas.org/juridico/PDFs/ley\\_modelo\\_proteccion.pdf](http://www.oas.org/juridico/PDFs/ley_modelo_proteccion.pdf)

[313] Accordingly, the Committee believes it would be useful for the State to consider keeping statistical information, broken down by year, on the results of the Anticorruption Act's implementation as regards the protective measures for corruption whistleblowers set out in Article 8, particularly on the work of the Anticorruption Commission related to the protection of whistleblowers, in order to indicate how many people were granted identity protection; how many people received other protective measures and what those measures entailed; how many people requesting protection were public officials and how many were members of the public; how many people were not given protection and the reasons for those decisions; how many people were given free legal representation; how many members of the Anticorruption Commission were given protection in accordance with Article 8, paragraph 6, of the Anticorruption Act; how many people were sanctioned for violations of paragraphs 1 and 2 of Article 8; and how many corruption whistleblowers gave testimony under the "protected witness" status conferred by Article 206(a) of the Criminal Code. The Committee will make a recommendation on this point (see Recommendation 2.4.13 in section 2.4 of Chapter II of this Report).

## 2.4 Recommendations

[314] In light of the observations formulated in sections 2.1, 2.2 of Chapter II of this Report, the Committee suggests that the country under review consider the following recommendations:

- 2.4.1 Adopt, develop, expand where appropriate, and enact, a comprehensive and regulatory framework that provides protection for public servants and private citizens who, in good faith, report acts of corruption, including protection of their identities, in accordance with its Constitution and the basic principles of its domestic legal system, to which end it might consider the criteria outlined in the *Model Law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses* (available at the Anti-Corruption Portal of the Americas), including, *inter alia*, the following. (See paragraphs 194 a 268 in section 2.1 of Chapter II of this Report.)
- a) Protection for public servants and private citizens who in good faith report acts of corruption, which may be subject to investigation in administrative or judicial proceedings.
  - b) Measures to protect not only the physical integrity of whistleblowers and their families, but also to provide protection in the workplace, especially when the person is a public official and the acts of corruption involve his superior or co-workers.
  - c) Mechanisms for reporting, such as anonymous reporting or protection of identity reporting, that guarantee the personal security and the confidentiality of the identity of public servants and private citizens who in good faith report acts of corruption.
  - d) Mechanisms to report any threats or reprisals against whistleblowers, stating the appropriate authorities to process protection requests and the bodies responsible for providing it.
  - e) Witness protection mechanisms that provide the same guarantees to both public servants and private citizens.
  - f) Mechanisms that facilitate international cooperation on the foregoing matters, when appropriate, including the technical assistance and cooperation provided

for by the Convention, as well as the exchanges of experiences, training, and mutual assistance.

- g) A simple whistleblower protection application process.
- h) Provisions which sanction the failure to observe the rules and/or duties relating to protection, that go beyond the imposition of a third category fine depending on the seriousness of the offense, stating the appropriate authorities to process protection requests and the bodies responsible for providing it.
- i) The respective competence of judicial and administrative authorities with respect to whistleblower protection, clearly distinguishing one from the other.

- 2.4.2 Consider adopting the relevant measures to develop and regulate the protection established in Article 8, paragraph 2, of the Anticorruption Act, in order to clearly define how corruption whistleblowers are to be protected against reprisals or hostility in the workplace; the body charged with receiving allegations of acts of hostility or workplace reprisals for lodging a complaint; the procedure for requesting the enactment of precautionary measures to prevent, halt, or render harmless such hostility or reprisals; and the authority responsible for enacting and implementing them. (See paragraphs 230 to 231 in section 2.1 of Chapter II of this Report.)
- 2.4.3 Consider amending Article 8, paragraph 2, of the Anticorruption Act, so that the protection provided for in the Act against acts of hostility or reprisals may be extended to corruption whistleblowers when such reprisals are related to the lodging of the complaint regardless of whether or not the person responsible for the reprisals is the employer or competent authority directly affected by the complaint. (See paragraph 232 in section 2.1 of Chapter II of this Report.)
- 2.4.4 Consider adopting the relevant measures to regulate Article 8, paragraph 3, of the Anticorruption Act, to elaborate on the procedure for requesting the annulment of measures or decisions taken by the employer or competent authority that could lead to harm for the whistleblower, indicating, *inter alia*, the authority to whom such requests are to be presented, the procedure to be followed, the solutions available in the event that the reprisals have already been taken and have already had consequences, and, when applicable, the compensatory measures for affected whistleblowers and the sanctions for those responsible. (See paragraph 233 in section 2.1 of Chapter II of this Report.)
- 2.4.5 Consider assessing the relevance and scope of the sanction that Article 16 establishes for revealing the identity of a corruption whistleblower so that the sanction is in proportion to the seriousness of the offense. (See paragraphs 266 in section 2.1 of Chapter II of this Report.)
- 2.4.6 Appoint the members of the Anticorruption Commission, so that the Anticorruption Act can be fully enforced, particularly as regards the measures for the protection of corruption whistleblowers provided for in Article 8 thereof. (See paragraphs 296 to 304 in section 1.2.1 of Chapter II of this Report.)
- 2.4.7 Adopt a calendar with deadlines for appointing the members of the Anticorruption Commission and for the start of its operations. (See paragraphs 296 to 304 in section 1.2.1 of Chapter II of this Report.)

- 2.4.8 Ensure that the Anticorruption Commission is equipped with the human and budgetary resources needed to ensure the full performance of its functions, including those of protecting corruption whistleblowers, within the available resources. (See paragraphs 296 to 304 in section 1.2.1 of Chapter II of this Report.)
- 2.4.9 Consider enacting the Regulations to the Anticorruption Act in order to regulate the implementation of the protective measures for good-faith corruption whistleblowers set out in Article 8 of the Anticorruption Act, for which purpose consideration could be given to the criteria established in the *Model Law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses* adopted by the MESICIC Committee of Experts, which is available on the Anticorruption Portal of the Americas. (See paragraphs 305 to 306 in section 1.2.1 of Chapter II of this Report.)
- 2.4.10 Consider revising Article 8, paragraph 4, of the Anticorruption Act, so that free legal representation for corruption whistleblowers can also be granted by the competent authority as a precautionary measure to avoid reprisals related to the filing of a complaint and not subsequently thereto. (See paragraphs 307 to 308 in section 1.2.1 of Chapter II of this Report.)
- 2.4.11 Consider including in the Anticorruption Act a provision establishing that the enforcement of that legislation will operate under the principle of good faith, to which end it could make use of the definition contained in the *Model Law to Facilitate and Encourage the Reporting of Acts of Corruption and to Protect Whistleblowers and Witnesses*, available on the Anticorruption Portal of the Americas. (See paragraphs 309 to 310 in section 1.2.1 of Chapter II of this Report.)
- 2.4.12 Consider revising and clarifying in the appropriate regulation the scope of Article 8, paragraph 5, of the Anticorruption Act as regards the exceptions to whistleblowers' responsibility for harm suffered by third parties as a result of the filing of the complaint, so that it is no more onerous than the responsibility for harm to third parties provided for in general legislation and does not serve to discourage public officials and private citizens from reporting acts of corruption out of fear of such consequences. (See paragraph 311 in section 1.2.1 of Chapter II of this Report.)
- 2.4.13 Prepare statistical information, compiled and broken down by year, on the results of the Anticorruption Act's implementation as regards the protective measures for corruption whistleblowers set out in Article 8, particularly on the work of the Anticorruption Commission, in order to indicate how many people were granted identity protection; how many people received other protective measures and what those measures entailed; how many people requesting protection were public officials and how many were members of the public; how many people were not given protection and the reasons for those decisions; how many people were given free legal representation; how many members of the Anticorruption Commission were given protection in accordance with Article 8, paragraph 6, of the Anticorruption Act; how many people were sanctioned for violations of paragraphs 1 and 2 of Article 8; and how many corruption whistleblowers gave testimony under the "protected witness" status conferred by Article 206(a) of the Criminal Code, in order to identify challenges and, if necessary, adopt corrective measures. (See paragraphs 312 to 313 in section 2.1 of Chapter II of this Report.)

### **3. ACTS OF CORRUPTION (ARTICLE VI, PARAGRAPH 1, OF THE CONVENTION)**

### 3.1. Follow-up of the implementation of the recommendations formulated in the Second Round

#### Recommendation 3.1:

*Modify and/or complement the Criminal Code, in order to expand its coverage to meet the requirements of Article VI.1 of the Inter-American Convention against Corruption.*

#### Measure (a) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Article 427 of the Criminal Code could be complemented so as to include the elements “solicit,” “directly or indirectly”, modify the elements “gift or promise” with “any benefit such as a favor or advantage,” include that the benefit can be for himself or for a third party, and modify or replace the conditional term “contrary to its obligations,” allowing for the inclusion of conducts carried out in the performance of duties.*

[315] In its Response to the Questionnaire and during the on-site visit, the country under review presented information and new developments relating to the foregoing recommendation. Of these, the Committee notes as a step contributing to its implementation the reform of the Criminal Code of March 30, 2015:<sup>78</sup>

[316] “Accepting gifts or promises

[317] *Article 426*

[318] *With imprisonment of up to four years and a fine of the fourth category, the official punished is:*

[319] *1°. the one accepting a gift, promise or service, knowingly or reasonably suspecting that he or someone else is being given, granted or offered this, without acting in violation of his duty, in order to persuade him to do or refrain from doing something in his position;*

[320] *2°. the one accepting a gift, promise or service, knowingly or reasonably suspecting that he or someone else is being given, granted or offered this as a result of or on the basis of what he has done or refrained from doing, without thereby acting in violation of his duty, in his current or previous position;*

[321] *3°. the one who asks for a gift, promise or service for himself or someone else in order to persuade himself to do or refrain from doing something in his position, without thereby acting in violation of his duty;*

[322] *4°. the one who asks for a gift, promise or service for himself or for another person, as a result of or in response to what he himself has been done or refrained from doing, without acting in violation of his duty, in his current or previous position.*

[323] *The one who, with the prospect of an appointment as an official, if the appointment as an official has ensued, commits an offense as described in paragraph 1 under 1° and 3°, will receive the same punishment.*

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<sup>78</sup> Response of Suriname to the Fifth Round Questionnaire, p. 20.

[324] *The person who commits an offense as described in paragraph 1 in connection with his capacity as minister, district commissioner or member of a general representative body shall be punished with imprisonment of up to nine years and a fine of the fifth category.*”

[325] “Accepting gifts or promises under aggravating circumstances

[326] *Article 427*

[327] *With imprisonment of up to six years and a fine of the fifth category, the official punished is:*

[328] *1°. the one accepting a gift or promise or a service, knowingly or reasonably suspecting that he or someone else is being given, granted or offered this, in order to persuade him to do or refrain from doing something in his position, in violation of his duty;*

[329] *2°. the one accepting a gift or promise or a service, knowingly or reasonably suspecting that he or someone else is being given, granted or offered this, as a result of or in response to that which he, in violation of his duty, has done or refrained from doing in his current or previous position;*

[330] *3°. the one who asks for a gift or promise or a service for himself or someone else, in order to persuade himself to do or refrain from doing something in his position, in violation of his duty;*

[331] *4°. the one who asks for a gift or promise or a service for himself or someone else, as a result of or in response to what he himself has done, or refrained from doing, in violation of his duty, in his current or previous position.*

[332] *The one who, with the prospect of an appointment as an official, if the appointment as an official has ensued, commits an offense as described in paragraph 1 under 1° and 3°, will receive the same punishment.*

[333] *The person who commits an offense as described in paragraph 1 in connection with his capacity as minister, district commissioner or member of a general representative body shall be punished with imprisonment of up to nine years and a fine of the fifth category. Accepting gifts or promises from the judge.”*

[334] In connection with this, the Committee notes that the origin of measure (a) of this recommendation dates back to the review conducted in the Second Round, when it formulated the following observation:

[335] *“The Committee observes that the offences set out in section in article 427 of the Criminal Code are relevant for promoting the purposes of the Convention. Nevertheless, it also notes that the some elements are missing. First, Article 427 contemplates the acceptance, but not the solicitation, directly or indirectly, of gifts or promises in exchange for acts or omissions in the performance of public duties. Second, the aforementioned article 427 only mentions the acceptance of gifts or promises, leaving out articles of monetary value or other benefits, such as favors, or advantages. Third, it only mentions that the illicit conduct is for the benefit of the public servant, leaving out benefits for another person or entity. Finally, the Committee finds that the action or omission is criminalized only when it is in breach of the duty of the public servant. However, the purpose of the Convention is to punish corrupt actions whether or not they are in breach of duty. In this regard, the Committee will formulate a recommendation”.*<sup>79</sup>

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<sup>79</sup> Report on Suriname from the Second Round of Review, p. 22.

[336] At the same time, the Committee believes it is appropriate to note that the text of Article VI.1(a) of the Convention, which defines the conduct under review in this section, reads as follows:

[337] *“The solicitation or acceptance, directly or indirectly, by a government official or a person who performs public functions, of any article of monetary value, or other benefit, such as a gift, favor, promise or advantage for himself or for another person or entity, in exchange for any act or omission in the performance of his public functions”.*

[338] In addition, it should also be noted that Article VII of the Convention, “*Domestic Law,*” referred to in Article VI.1, provides as follows:

[339] *“The States Parties that have not yet done so shall adopt the necessary legislative or other measures to establish as criminal offenses under their domestic law the acts of corruption described in Article VI(1) and to facilitate cooperation among themselves pursuant to this Convention.”*

[340] In connection with this, the Committee takes note of the step taken by the country under review for the implementation of measure (a) of the foregoing recommendation and, for the reasons outlined below, believes that it should be reformulated:

[341] First of all, the Committee notes that the text of Articles 426 and 427 of the Criminal Code includes the requesting of gifts or promises, the benefit being extended to the individual in question or to third parties, and the soliciting or acceptance of those benefits in exchange for performing or refraining from performing any act in the exercise of the official’s public duties. This addresses these elements in measure (a) of the foregoing recommendation, in compliance with the provisions of Article VI(1) of the Convention, and consequently, the Committee notes the satisfactory consideration of those elements of the measure of the foregoing recommendation.

[342] Second, the Committee takes note that although Article 427 includes the phrase “*in violation of his duty,*” this criminal act refers to the acceptance of gifts or promises “*under aggravating circumstances,*” the violation of his duty being one of these aggravating circumstances, whereas Article 426 regarding the acceptance of gifts or promises does not contain the conditional term “*contrary to its obligations,*” . Consequently, the Committee also takes note of the satisfactory consideration of this element of the measure of the foregoing recommendation as well.

[343] Similarly, the Committee notes that the text of these articles adds the element of offering or accepting services, in addition to the offering or acceptance of gifts or promises already included in the previous wording. However, the Committee notes that measure (a) of the foregoing recommendation refers to the inclusion of the terms “*any article of monetary value, or other benefit such as a favor or advantage,*” which is the language of the Convention, and it is unclear whether the term “*services*” covers the idea of “*any article of monetary value, or other benefit such as a favor or advantage,*” and it does not include the terms “*directly or indirectly.*”

[344] Given the foregoing, the Committee takes note of the steps taken by the country under review in its implementation of measure (a) of the foregoing recommendation and believes that it would be appropriate to reformulate it, taking into consideration the elements that have been satisfied and those that have not yet been included in the definition of the offense. The Committee will formulate a recommendation (see Recommendation 3.3.1 in section 3.4 of Chapter II of this Report).

Measure (b) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Article 229 of the Criminal Code could be complemented so as to include the elements “offering,” “directly or indirectly”, modify the elements “gift or promise” with “any benefit such as a favor or advantage,” include that the benefit can be for himself or a third party, and modify or replace the conditional term “contrary to its obligations,” allowing for the inclusion of conducts carried out in the performance of duties.*

[345] In its Response to the Questionnaire and during the on-site visit, the country under review presented information and new developments relating to the foregoing recommendation. Of these, the Committee notes as a step contributing to its implementation the reform of the Criminal Code of March 30, 2015:<sup>80</sup>

[346] *“Bribing officials*

[347] *Article 229*

[348] *With imprisonment of up to four years and a fine of the fourth category is punished:*

[349] *1°. the person who himself gives or offers a gift or promise to an official or someone else with the intent to persuade the official to do or refrain from doing something in his position, which is in violation of his duty;*

[350] *2°. the person who gifts or makes a promise to an official or provides or offers a service as a result of or in connection with what has been done or refrained from by this official in his current or previous position, which is in violation of his duty.*

[351] *The person who commits an offense as described in paragraph 1 under 1 ° toward a person with the prospect of an appointment as an official, in case the appointment as an official has ensued, will receive the same punishment.*

[352] *Deprivation of the rights mentioned in Article 46 paragraph 1 under 1 °, 2 ° and 4 ° may be pronounced.”*

[353] *“Favoritism regarding officials*

[354] *Article 229a*

[355] *With imprisonment of up to two years and a fine of the fourth category, with either one of the two punishments shall be punished:*

[356] *1°. the person who gifts or makes a promise to an official or provides or offers a service with the intent to persuade the official to do or refrain from doing something in his position, without acting in violation of his duty;*

[357] *2°. the person who gifts or makes a promise to an official or provides or offers a service in response to what the official has been done or refrained from doing in his current or previous position, without acting in violation of his duty;*

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<sup>80</sup> Response of Suriname to the Fifth Round Questionnaire, p. 20.

[358] *The person who commits an offense as described in paragraph 1 under 1 ° toward a person with the prospect of an appointment as an official, in case the appointment as an official has ensued, will receive the same punishment.*

[359] *Deprivation of the rights mentioned in Article 46 paragraph 1 under 1 °, 2 ° and 4 ° may be pronounced.”*

[360] In connection with this, the Committee notes that the origin of measure (b) of this recommendation dates back to the review conducted in the Second Round, when it formulated the following observation:

[361] *“The Committee notes that the offences set out in section in article 229 of the Criminal Code are relevant for promoting the purposes of the Convention. Nevertheless, here too the Committee notes that some elements are missing. First, article 229 criminalizes the action of giving a public servant a gift or promise, directly or indirectly, in exchange for an act or omission in the performance of his public function, but does not criminalize the act of offering him said gifts or promises. Second, Article 229 only mentions the acceptance of gifts or promises, leaving out articles of monetary value or other benefits, monetary or not, such as favors, or advantages. Third, it only mentions that the illicit conduct is for the benefit of the public servant, leaving out benefits for another person or entity. Finally, the Committee finds that the action or omission is criminalized only when it is in breach of the duty of the public servant. However, the purpose of the Convention is to punish corrupt actions whether or not they are in breach of duty. In this regard, the Committee will formulate a recommendation.”<sup>81</sup>*

[362] At the same time, the Committee believes it is appropriate to note that the text of Article VI.1(b) of the Convention, which defines the conduct under review in this section, reads as follows:

[363] *“The offering or granting, directly or indirectly, to a government official or a person who performs public functions, of any article of monetary value, or other benefit, such as a gift, favor, promise or advantage for himself or for another person or entity, in exchange for any act or omission in the performance of his public functions;”*

[364] In addition, it should also be noted that Article VII of the Convention, “*Domestic Law*,” referred to in Article VI.1, provides as follows:

[365] *“The States Parties that have not yet done so shall adopt the necessary legislative or other measures to establish as criminal offenses under their domestic law the acts of corruption described in Article VI(1) and to facilitate cooperation among themselves pursuant to this Convention.”*

[366] In connection with this, the Committee takes note of the step taken by the country under review for the implementation of measure (b) of the foregoing recommendation and, for the reasons outlined below, believes that it should be reformulated:

[367] First of all, the Committee notes that the new revised text of Article 229 of the Criminal Code, as well as Article 229a, include the offering of gifts or promises, the benefit being extended to the individual in question or to third parties, and the provision of those benefits in exchange for performing or refraining from performing any act in the exercise of the official’s public duties, and modifies the text so the condition of the public official acting “*in violation of his duties*” is no longer an element of the offense. This addresses these elements in measure (b) of the foregoing recommendation, in compliance with the

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<sup>81</sup> Report on Suriname from the Second Round of Review, p. 22.

provisions of Article VI(1) of the Convention, and consequently, the Committee notes the satisfactory consideration of those elements of the measure of the foregoing recommendation.

[368] Similarly, the Committee notes that the text of this article adds that the benefit may also be services, in addition to the gifts or promises already included in the previous wording. However, the Committee notes that measure (b) of the foregoing recommendation refers to the inclusion of the terms “*any benefit such as a favor or advantage,*” which is the language of the Convention, and it is unclear whether the term “*services*” covers the idea of “*any benefit such as a favor or advantage.*” Equally, the Committee notes that the new text does not include the terms “*directly or indirectly,*” and that these elements are not contemplated in article 229a either.

[369] Given the foregoing, the Committee takes note of the steps taken by the country under review in its implementation of measure (b) of the foregoing recommendation and believes that it would be appropriate to reformulate it, taking into consideration the elements that have been satisfied and those that have not yet been included in the definition of the offense. The Committee will formulate a recommendation (see Recommendation 3.3.2 in section 3.4 of Chapter II of this Report).

Measure (c) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Article 430 of the Criminal Code could be complemented so as to modify the element “payments” for “any benefit such as a favor or advantage,” and include that the benefit can be for himself or for a third party.*

[370] Both in its Response to the Questionnaire and during the on-site visit, the country under review presented information and new developments regarding this measure. Of these, the Committee notes the following as steps contributing to the satisfactory implementation of this measure of the foregoing recommendation:

[371] The amendment of the Criminal Code, which includes Article 429(a), the text of which provides:

[372] *“An official, who deliberately does or refrains from doing something, by abusing his role or position, in order to obtain any benefit for himself or someone else, shall be punished with imprisonment of up to two years and a fine of the fourth category, or with either one of the two punishments.”*

[373] In connection with this, the Committee notes that the origin of measure (c) of this recommendation dates back to the review conducted in the Second Round, when it formulated the following observation:

[374] *“The Committee notes that the offenses recognized in Article 430 of the Criminal Code are relevant for promoting the purposes of the Convention. However, the Committee also notes the absence of a number of elements in this instance. In first place, Article 430 makes it an offense for a public servant in the performance of their duties to request or receive payments for themselves, another public servant, or for any public fund, or, upon receiving a payment, to keep any amount that they know to be not rightfully collectible. However, the article does not mention whether this benefit may be not only for the public servant themselves, but also for third parties who are not public servants or manage public funds. Furthermore, the article refers only to payments while failing to include other benefits, such as favors or advantages. The Committee will make a recommendation in this regard”.*<sup>82</sup>

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<sup>82</sup> Report on Suriname from the Second Round of Review, p. 23.

[375] At the same time, the Committee believes it is appropriate to note that the text of Article VI.1(c) of the Convention, which defines the conduct under review in this section, reads as follows:

[376] *“Any act or omission in the discharge of his duties by a government official or a person who performs public functions for the purpose of illicitly obtaining benefits for himself or for a third party;”*

[377] In addition, it should also be noted that Article VII of the Convention, *“Domestic Law,”* referred to in Article VI.1, provides as follows:

[378] *“The States Parties that have not yet done so shall adopt the necessary legislative or other measures to establish as criminal offenses under their domestic law the acts of corruption described in Article VI(1) and to facilitate cooperation among themselves pursuant to this Convention.”*

[379] In connection with this, the Committee notes that the definition of the conduct covered by Article VI.1(c) of the Convention in the form in which it has been included in Article 429(a) satisfies the Convention’s requirements, and therefore takes note of the satisfactory consideration of measure (c) of the foregoing recommendation.

Measure (d) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Criminalize, in its Criminal Code, the conduct of an accessory after the fact, as well as the co-author or accomplice, instigator, and the conspiracy of two or more persons to commit a crime, for the purposes referred to in paragraph e) of Article VI.1. of the Convention.*

[380] During the on-site visit, the country under review presented information and new developments regarding this measure. Of these, the Committee notes the following as steps contributing to the implementation of this measure of the foregoing recommendation:

[381] The amendment of the Criminal Code, which includes the following:

[382] *Article 70 – Attempt*

[383] *1. An attempt to commit a crime is punishable when the perpetrator's intention has been revealed by a start of execution. 2015 - 33 - No. 44*

[384] *Article 71 – Preparation*

[385] *1. Preparation of a crime, which in legal description is subject to imprisonment of eight years or more, and of one of the offenses described in articles 268<sup>83</sup> and 268a<sup>84</sup>, is punishable if the perpetrator deliberately destroys objects, substances, information carriers, spaces or acquires, manufactures, imports, ships, exports or possesses means of transport intended for committing that crime.*

[386] *Article 72 - Perpetrators*

[387] *1. As perpetrators of a punishable offense are punished:*

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<sup>83</sup> Article 268 refers to the forging of stamps.

<sup>84</sup> Article 268 refers to the falsification of platinum, gold or silver works, as well as stamps for said falsified metals.

[388] 1°. *those who commit the offense or those who have it committed by others or those who are an accessory to it; 2015 - 34 - No. 44*

[389] 2°. *those who intentionally provoke the offense by gifts, promises, abuse of authority, violence, threats or deception or by providing opportunity, means, or information or by another legally relevant act.*

[390] 2. *With regard to the latter, only those acts that they have deliberately provoked, together with their consequences, are taken into account*

[391] *Article 73 – Complicity in criminal offenses*

[392] *As accomplices in a criminal offense are punished:*

[393] 1°. *those who intentionally assist in committing the criminal offense;*

[394] 2°. *those who deliberately provide opportunity, means or information to commit the criminal offense.*

[395] *Article 108 – Conspiracy*

[396] *Conspiracy exists as soon as two or more persons have agreed to commit the crime.*

[397] In connection with this, the Committee notes that the origin of measure (d) of this recommendation dates back to the review conducted in the Second Round, when it formulated the following observation:

[398] *“Having analyzed the criminal standards reported by the Republic of Suriname, the Committee finds that those standards make no provision to define the conduct of someone who engages in actions to conceal or make it impossible to investigate or punish the perpetrator or participant in any of the acts described in Article VI.1 of the Convention, or those who participate as co-principal, accomplice or instigator. The Committee also notes that the conspiracy of two or more persons to commit a crime is not criminalized either. In this regard, the Committee will formulate a recommendation.”<sup>85</sup>*

[399] At the same time, the Committee believes it is appropriate to note that the text of Article VI.1(e) of the Convention, which defines the conduct under review in this section, reads as follows:

[400] *“Participation as a principal, coprincipal, instigator, accomplice or accessory after the fact, or in any other manner, in the commission or attempted commission of, or in any collaboration or conspiracy to commit, any of the acts referred to in this article”.*

[401] In connection with this, the Committee takes note of the step taken by the country under review for the implementation of measure (d) of the foregoing recommendation and, for the reasons outlined below, believes that it should be reformulated:

[402] In that regard, the Committee notes that although the aforementioned articles of the revised Criminal Code do attend to several elements of the foregoing recommendation, such as the co-author or accomplice, as well as the conspiracy of two or more persons to commit a crime, which can be applicable

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<sup>85</sup> Report on Suriname from the Second Round of Review, p. 23.

to the purposes referred to in paragraph e) of Article VI.I of the Convention, the criminalization of the conduct of an accessory after the fact is not contemplated in the Criminal Code.

[403] Similarly, the Committee observes that the conduct of preparation of a crime, only applies to crimes which in legal description are subject to imprisonment of eight years or more, or falsification of stamps or platinum, gold or silver works, and stamps for said falsified metals, which could leave out its application regarding acts of corruption.

[404] Given the foregoing, the Committee takes note of the steps taken by the country under review in its implementation of measure (f) of the above mentioned recommendation and further notes that it would be appropriate to reformulate it, in light of the elements that have been satisfied and the one that is still pending incorporation into the legislation. The Committee will formulate a recommendation (see Recommendation 3.3.3 in section 3.4 of Chapter II of this Report).

Measure (e) suggested by the Committee, which requires additional attention within the Framework of the Third Round Report:

*Study the possibility of amending the legislation in place, in particular the Criminal Code, so that the definition of public servant is expanded to include those private citizens who perform public functions or who manage public funds in any capacity or form.*

[405] In its Response to the Questionnaire and during the on-site visit, the country under review presented the following information:

[406] – The adoption of the Anticorruption Act of September 24, 2017 (SB2017#85), published in Official Gazette No. 85,<sup>86</sup> which defines “public official” in the following terms:

[407] *“any person, authority, or body entrusted with a public function.”<sup>87</sup>*

[408] – The amendment of the Criminal Code, Article 428 of which expands the status of “civil servant” to the following persons:

[409] *“Equivalent of a civil servant.*

[410] *“1. For the purposes of Articles 425, 428, and 427, people belonging to the public service of a foreign state or to an international organization shall be considered public officials.*

[411] *“2. For the purposes of Articles 426, subparagraphs 2 and 4, and Article 427, subparagraphs 2 and 4, former public officials shall be considered public officials.*

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<sup>86</sup> Available at: [http://www.oas.org/juridico/english/mesicic5\\_sur.htm](http://www.oas.org/juridico/english/mesicic5_sur.htm)

<sup>87</sup> The Anticorruption Act defines “public function” as follows: “any task, job, service, or activity that is performed, fulfilled, executed, or provided, either generally, one-time, or regularly, for pay or not for pay by:

1°. a member of the Government, the Judiciary, a popular representative body, the Council of State, or the Court of Auditors;

2°. a civil servant pursuant to the Personnel Act, or a person employed by a state institution;

3°. a state institution or a body of a state institution;

4°. a public body or a private institution entrusted with public services, including the supply of electricity, water, and communication services;

[412] “3. For the purposes of Article 427(a), judges of a foreign state or of an international organization shall be the equivalent of judges.”

[413] In this regard, the Committee would like to note that the origin of this recommendation dates back to the review conducted in the Second Round, when it formulated the following observation:

[414] “Although Article 114 of the Criminal Code provides a definition of “public servant”, the Committee notes that this definition, in terms of application to that Code, does not contemplate private citizens who perform public functions or who manage public funds in any capacity or form. In this regard, the Committee will formulate a recommendation.”

[415] Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (e), for the reasons set out below:

[416] First of all, the Committee notes that although the definition of “public official” set out in the Anticorruption Act is broader than the one in Article 114 of the previous Criminal Code, the Anticorruption Act does not repeal the Code’s Article 114, nor does it stipulate that for the enforcement of the Criminal Code, private citizens performing public functions or managing public funds in any way shall be considered public officials.

[417] Second, the Committee notes that although the amended Article 428 of the March 2015 Criminal Code expands the equivalence of “public official” to the persons indicated in subparagraphs 1 to 3, that expansion does not cover private citizens performing public functions or managing public funds in any way for the enforcement of that Code.

[418] Finally, the Committee also notes that the amended text of Article 114 reads as follows:

[419] “Public officials:

[420] “Article 114

[421] “1. “Public officials” include those persons appointed by a government institution and under the supervision and responsibility thereof.

[422] “2. In connection with this, a “government institution” also includes any company over which a public authority has a dominant influence in its management or operation.

[423] “3. ‘Public servants’ also include members of the general representative bodies and arbiters.

[424] “4. ‘Judges’ also includes persons exercising administrative jurisdiction, such as legally appointed disciplinary arbiters and judges.”

[425] In connection with this, the Committee notes that Title X (“Meaning of common expressions”) of the amended Criminal Code indicates that the amendments to Article 114 are related, *inter alia*, with a more detailed definition of what constitutes a government institution, which it notes is inspired by the possible privatization of government institutions, which would include the employees thereof in the category of civil servants. Similarly, the term “judge” has been expanded to include disciplinary arbiters. However, although these amendments expand the definition of civil servants, they do not include private citizens performing public functions or managing public funds in any way, in the terms of the enforcement of the Criminal Code, which is the goal of the foregoing recommendation.

[426] Given the foregoing, the Committee reiterates the need for the country under review to give additional attention to the implementation of measure (e), which should be reformulated for greater clarity (see Recommendation 3.3.4 in section 3.4 of Chapter II of this Report).

### 3.2 New developments in respect of the Convention provision on Acts of Corruption

#### 3.2.1 New Developments with respect to the Legal Framework

##### a) Scope

[427] – The amendment of the Criminal Code of March 30, 2015 (SB 2015 No. 44), which includes the amendments to the articles cited in section 3.1 of Chapter II of this Report.

[428] – The enactment of the Anticorruption Act of September 24, 2017 (SB 2017 No. 85), published in Official Gazette No. 85,<sup>88</sup> which creates the Anticorruption Commission, and Article 4, paragraph 2, of which establishes that:

[429] “*Article 4*

[430] “*2. The Commission is authorized:*

[431] “*a) to receive and register reports of abuses, for forwarding to the Procurator-General with the request that their processing be taken over. In addition, all documents and information received by the Commission with the report are transferred to the Procurator-General;*

[432] “*b) within the framework of the preventive tasks, upon request or at its own initiative, to perform investigations within state institutions concerning their compliance with the instructions and directives referred to in paragraph 1, subparagraph a<sup>89</sup>, and to evaluate the organizational structures, processes, and procedures for their sensitivity to abuses; within this framework, the Commission is authorized to engage in local orientation*

[433] “*c) to summon and examine public officials and relevant persons or authorities in connection with the provisions of paragraph 1, subparagraph b.<sup>90</sup> The written report of the examination is signed by the chair following adoption by the Commission;*

[434] “*d) to request from state institutions and/or public officials documents and information needed or desired for the auditing and investigation referred to in subparagraph b and to examine witnesses under oath in this regard; the chair is authorized to administer the oath.*”

##### b) Observations

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<sup>88</sup> Available at: [http://www.oas.org/juridico/english/mesicic5\\_sur.htm](http://www.oas.org/juridico/english/mesicic5_sur.htm)

<sup>89</sup> Paragraph 1, subparagraph (a) of Article 4 of the Anticorruption Act states that one of the tasks of the Commission is “*to periodically provide instructions and directives to state institutions on the prevention of corruption, to screen state institutions on their compliance with said instructions and directives, and to periodically report on such matters to the National Assembly and the Government.*”

<sup>90</sup> Paragraph 1, subparagraph (b) of Article 4 of the Anticorruption Act states that one of the tasks of the Commission is “*to provide state institutions with solicited and unsolicited advice on promoting integrity and compliance within the organization and to take measures that discourage the chance of abuses.*”

[435]The Committee has already formulated comments in section 3.1 of Chapter II of this Report regarding the amendments of the Criminal Code of March 30, 2015 (SB 2015 No. 44); consequently, it will make no remarks in this section.

[436]As regards the Anticorruption Act, the Committee notes that Article 4, paragraph 2, of that legislation empowers the Anticorruption Commission to receive reports of acts of corruption, for referral to the Attorney General. However, the Committee notes that during the on-site visit, the representatives of the Public Prosecutions Department (PPD) and of the Ministry of Justice and Police (MJP) explained that the Anticorruption Commission had not yet been set up and that, consequently, was not yet operational. Since the Committee has already offered comments on the importance of setting up the Anticorruption Commission in section 2 of Chapter II of this Report and formulated recommendations in that regard, it will make no remarks on the matter in this section (see Recommendations 2.4.6, 2.4.7, and 2.4.8 in section 2.4 of Chapter II of this Report).

### 3.2.2 Results

[437]The country under review presented no results either in its Response to the Questionnaire or during the on-site visit. Accordingly, the Committee offers the following comments:

[438]First of all, as regards statistics on the investigation, prosecution, and punishment of acts of corruption, the Committee recalls that during the Fourth Round of Review, when it analyzed the High Court of Justice and the Public Prosecutions Department (PPD), it formulated recommendations for the development of statistics to reveal the results achieved with the detection, investigation, and prosecution of acts of corruption, which it reiterates on this occasion.<sup>91</sup>

[439]Likewise, the Committee believes it would be useful for the country under review, once the Anticorruption Commission has been set up, to consider preparing statistical information, compiled and broken down by year, on the results of the Commission's work, in order to reveal how many corruption complaints it received; how many corruption complaints were referred to the Attorney General; and how many reports on corruption complaints were referred to the Attorney General, in compliance with the provisions of Article 4, paragraph 2, of the Anticorruption Act, in order to identify challenges and, if necessary, adopt corrective measures (see Recommendation 3.3.5 in section 3.4 of Chapter II of this Report).

### 3.3 Recommendations

[440] In light of the observations formulated in section 3.1 of Chapter II of this Report, the Committee suggests that the country under review consider the following recommendations:

3.3.1 Adopt the necessary legislative or other measures to complement the elements of the criminal offense contemplated in articles 426 and 427 of the Criminal Code, so as to be more fully consistent with Article VI(1)(a) of the Convention, by incorporating thereto the elements "*directly or indirectly,*" adding "*any benefit such as a favor or advantage*" (See paragraphs 315 to 344 in section 2.1 of Chapter II of this Report.)

3.3.2 Adopt the necessary legislative or other measures to complement the elements of the criminal offense contemplated in articles 229 and 229a of the Criminal Code, so as to be more fully consistent with Article VI(1)(b) of the Convention, by incorporating thereto the elements

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<sup>91</sup> See: Report on Suriname from the Fourth Round of Review, recommendations 1.4.18, 1.4.19, and 2.4.13.

*“directly or indirectly,”* adding *“any benefit such as a favor or advantage.”* (See paragraphs 345 to 369 in section 2.1 of Chapter II of this Report.)

3.3.3 Criminalize, in its Criminal Code, the conduct of an accessory after the fact, and revise article 73 regarding preparation of a crime in order to ensure its applicability to acts of corruption, for the purposes referred to in paragraph e) of Article VI.1. of the Convention. (See paragraphs 380 to 404 in section 2.1 of Chapter II of this Report.)

3.3.4 Consider the possibility of amending the legislation in place, in particular the Criminal Code, so that the definition of public servant is expanded to include those private citizens who perform public functions or who manage public funds in any capacity or form. (See paragraphs 405 to 426 in section 2.1 of Chapter II of this Report.)

3.3.5 Prepare statistical information, compiled and broken down by year, on the results of the Anticorruption Commission’s work, in order to reveal how many corruption complaints it received; how many corruption complaints were referred to the Attorney General; and how many reports on corruption complaints were referred to the Attorney General, in compliance with the provisions of Article 4, paragraph 2, of the Anticorruption Act, in order to identify challenges and, if necessary, adopt corrective measures (see paragraphs 437 to 439 in section 2.1 of Chapter II of this Report).

#### **4. GENERAL RECOMMENDATIONS**

Recommendation 4.1 suggested by the Committee that requires additional attention within the Framework of the Third Round:

*Design and implement, when appropriate, training programs for public servants responsible for implementing the systems, standards, measures and mechanisms considered in this Report, for the purpose of guaranteeing that they are adequately understood, managed and implemented.*

[441] Bearing in mind that Sections 1, 2, and 3 of Chapter II of this Report contain an up-to-date, detailed review both of the follow-up on the recommendations made to the country under review in the Second Round and of the systems, standards, measures, and mechanisms to which the above recommendation refers, the Committee, reaffirms the contents of those sections and, therefore, considers that this recommendation is redundant.

Recommendation 4.2 suggested by the Committee that requires additional attention within the Framework of the Third Round:

*Select and develop procedures and indicators, when appropriate and where they do not yet exist, to analyze the results of the systems, standards, measures and mechanisms considered in this Report, and to verify follow-up on the recommendations made herein.*

[442] Bearing in mind that Sections 1, 2, and 3 of Chapter II of this Report contain an up-to-date, detailed review both of the follow-up on the recommendations made to the country under review in the Second Round and of the systems, standards, measures, and mechanisms to which the above recommendation refers, the Committee, reaffirms the contents of those sections and, therefore, considers that this recommendation is redundant.

Recommendation 4.3 suggested by the Committee that requires additional attention within the Framework of the Third Round:

*Establish mechanisms for providing timely responses to the Questionnaire regarding the provisions of the Inter-American Convention against Corruption within the set deadlines, including the section on results.*

[443] Bearing in mind that Sections 1, 2, and 3 of Chapter II of this Report contain an up-to-date, detailed review both of the follow-up on the recommendations made to the country under review in the Second Round and of the systems, standards, measures, and mechanisms to which the above recommendation refers, the Committee, reaffirms the contents of those sections and, therefore, considers that this recommendation is redundant.

### **III. REVIEW, CONCLUSIONS AND RECOMMENDATIONS ON IMPLEMENTATION BY SURINAME OF THE CONVENTION PROVISIONS SELECTED FOR THE FIFTH ROUND**

#### **1. INSTRUCTIONS TO GOVERNMENT PERSONNEL TO ENSURE PROPER UNDERSTANDING OF THEIR RESPONSIBILITIES AND THE ETHICAL RULES GOVERNING THEIR ACTIVITIES (ARTICLE III, PARAGRAPH 3 OF THE CONVENTION)**

[444] In accordance with the Methodology adopted by the Committee for the Fifth Round regarding the implementation of Article III, paragraph 3 of the Convention, which refer to measures that intended to establish, maintain and strengthen “*instruction[s] to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities,*” the country under review chose the Suriname Police Force/ “*Korps Politie Suriname (KPS)*”, and the Ministry of Home Affairs, based on the consideration that they stand out for having implemented programs on this subject.

[445] The following is a brief description of the two bodies selected by the Republic of Suriname that are to be examined in this section:<sup>92</sup>

[446] – According to the Police Charter, the Minister of Justice and Police is in charge of the general management of the KPS. Without prejudice to the aforementioned, the Attorney General is in charge of the judicial police tasks. Furthermore, the Chief of Police under the overall management of the Minister, is responsible for the organization and management of the police.

[447] In general the police has the task to ensure the maintenance of public order and safety, the prevention of offences, the protection of persons and goods, the investigation of criminal offences and the enforcement of legal provisions, which are punishable, and in this regard the provisions of the Anti-Corruption Act. Thus, the staff of the KPS must be well-trained and also comply with the ethical rules of their organization in order to enforce the abovementioned legislation effectively.

[448] – The Ministry of Home Affairs is, according to the formal task statement, responsible for the overall government personnel policy. This includes the activities, tools and procedures that are designed to improve the effective functioning of employees within the government (e.g. different ministries) bearing in mind among other things working conditions, labor relations and labor content. The aforementioned Ministry is also responsible for the conditions under which government personnel do their work, set up/provision, organs and other resources and initiating awareness activities for officials.

#### **1.1. Existence of a legal framework and/or other measures**

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<sup>92</sup> Response of Suriname to the Fifth Round Questionnaire, pp. 3 and 4.

[449] The Republic of Suriname has a set of provisions and/or measures that provide instructions to government personnel to ensure proper understanding of their responsibilities and the ethical rules governing their activities, among which the following are highlighted:

- Constitutional, statutory, and other legal provisions applicable to most employees of public entities, such as:<sup>93</sup>

[450] – The Constitution.

[451] – The civil servants’ oath, based on Article 37 of the Personnel Act,<sup>94</sup> which provides that *“The public official is required to comply with the provisions established by State Decree regarding the taking an oath or affirmation, as long as religious and conscience objections to taking an oath are respected.*

[452] – Job descriptions.

[453] – The Public Administration Personnel Act.

[454] – Legal instructions/circulars for police officers, the army, and members of the judiciary.

[455] – Government Accounts Act.

[456] – Ministerial Responsibility Act.

[457] – Criminal Code.

[458] As regards the way in which personnel are apprised of their responsibilities and functions, and whether records thereof exist, in its Response to the Questionnaire, the country under review reported that: *“The manner in which personnel are informed of their responsibilities and functions is done verbally and in writing but no records are kept of those instructions.”*<sup>95</sup>

[459] As regards the occasions when personnel are apprised of their responsibilities and functions, in its Response to the Questionnaire, the country under review reported that: *“Personnel are informed of their responsibilities and functions when they take the Civil Service Oath which is obligatory according to the Personnel Act. Other than that the informing of personnel of their responsibilities and functions happens on an incidental basis”*.<sup>96</sup>

[460] As regards the existence of induction or instruction programs and courses for personnel on how to discharge their responsibilities and functions correctly and, in particular, to raise their awareness about the risks of corruption inherent in the fulfillment of their responsibilities, in its Response to the Questionnaire, the country under review indicated that: *“Personnel is being provided with training to improve their performance as well as to increase their awareness about the risks of corruption inherent in the performance of their functions but enrolment in this training is not obligatory. This training is*

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<sup>93</sup> Response of Suriname to the Fifth Round Questionnaire, p. 4.

<sup>94</sup> See <http://www.dna.sr/media/15979/Personneelswet.pdf>

<sup>95</sup> Response of Suriname to the Fifth Round Questionnaire, p. 5.

<sup>96</sup> Response of Suriname to the Fifth Round Questionnaire, p. 5.

*provided through the “Surnumerair training” and the Advanced General Civil Service Training (VAAO training).”*<sup>97</sup>

[461] As regards the use of modern communications technologies for informing personnel of the responsibilities and functions of their positions and for providing them with guidance regarding the correct discharging thereof, in its Response to the Questionnaire, the country under review indicated that: *“No, until now (institutionally) Suriname does not make use of modern communication technologies to apprise personnel of their responsibilities or functions and to provide guidance on how to perform them properly”*.<sup>98</sup>

[462] As regards the existence of agencies to which personnel can resort for obtaining information or resolving issues about the due performance of their responsibilities and functions, in its Response to the Questionnaire, the country under review said that *“As far as Suriname is concerned to date no bodies exist to which personnel can resort to obtain information or resolve doubts about how to perform their responsibilities and functions properly.”*<sup>99</sup> During the on-site visit, however, the representatives of the Ministry of Home Affairs explained that civil servants can consult with their legal departments and the Directorate of Human Resources for those purposes.

[463] Regarding the existence of a governing body, authority, or agency responsible for defining, guiding, advising, or supporting the ways in which personnel are to be apprised of their responsibilities or functions and for ensuring that this is done completely, and measures or actions that those bodies can take to ensure compliance with the provisions and/or measures governing this matter, in its Response to the Questionnaire, the country under review indicated that this is the task of the Personnel Subdirectorate of the Ministry of Home Affairs and of the Subdirectorate for General Administrative Matters with the support of the Personnel Affairs Division.<sup>100</sup>

[464] Regarding the way in which personnel are apprised of the ethical rules governing their activities, indicating whether that is done verbally or in writing and whether records of those instructions are kept, in its Response to the Questionnaire, the country under review said that: *“Personnel are incidentally informed of the ethical rules governing their activities. However, there is a module called ‘integrity’ which is being taught to government personnel / civil servants who have enrolled in the Advanced General Civil Service Training”*.<sup>101</sup>

[465] Regarding the occasions on which personnel are apprised of the ethical rules governing their activities, indicating whether this takes place when they begin their employment or subsequently, when a change in their duties implies a different set of applicable ethical rules, or when those rules are modified, in its Response to the Questionnaire, the country under review indicated that: *“Government personnel / civil servants are obliged by the Personnel Act to take an oath which states that they should perform their duties with honesty and to their best knowledge”*.<sup>102</sup>

[466] As regards the existence of induction or instruction programs and courses for personnel on the ethical rules governing their activities and, in particular, on the consequences of noncompliance for the public service and for those in breach thereof, in its Response to the Questionnaire, the country under

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<sup>97</sup> Response of Suriname to the Fifth Round Questionnaire, pp. 5 and 6.

<sup>98</sup> Response of Suriname to the Fifth Round Questionnaire, p. 6.

<sup>99</sup> Response of Suriname to the Fifth Round Questionnaire, p. 6.

<sup>100</sup> Response of Suriname to the Fifth Round Questionnaire, p. 6.

<sup>101</sup> Response of Suriname to the Fifth Round Questionnaire, p. 7.

<sup>102</sup> Response of Suriname to the Fifth Round Questionnaire, p. 7.

review indicated that: *“Worth mentioning in this case is the 'Integrity' module at the Advanced General Civil Service Training”*.<sup>103</sup>

[467] Regarding the use of modern communications technologies to inform personnel of the ethical rules governing their activities and to provide guidance about their scope and interpretation, in its Response to the Questionnaire, the country under review said that: *“To date Suriname does not make use of modern communication technologies which are significant to apprise personnel of the ethical rules governing their activities and to provide guidance as to their scope or interpretation”*.<sup>104</sup>

[468] Regarding the existence of agencies to which personnel can resort to obtain information or resolve issues related to the scope or interpretation of the ethical rules governing their activities, in its Response to the Questionnaire, the country under review indicated that: *“As far as Suriname is concerned to date no bodies exist to which personnel can resort to obtain information or resolve doubts about the scope or interpretation of the ethical rules governing their activities”*.<sup>105</sup>

[469] Finally, regarding the existence of a governing body, authority, or agency responsible for defining, guiding, advising, or supporting the ways in which personnel are apprised of the ethical rules governing their activities and ensuring that this is done completely, and the measures or actions that those bodies can take to ensure compliance with the provisions and/or measures governing this matter, in its Response to the Questionnaire, the country under review said that: *“As far as Suriname is concerned to date no governing organ, authority or body responsible for defining, steering, giving guidance on, or supporting the manner in which personnel are to be informed of the ethical rules governing their activities, and for seeing that this task is fully carried out, and the measures or actions that such bodies can take to enforce the norms and/or measures in force in this regard”*.<sup>106</sup>

- Constitutional, statutory, and other legal provisions applicable to personnel under the authority of the Suriname Police Force (KPS), including:<sup>107</sup>

[470] – The Police Charter of 1971.<sup>108</sup>

[471] – The Police Code of Conduct.

[472] As regards the way in which personnel are apprised of their responsibilities and functions, and whether records thereof are kept, in its Response to the Questionnaire, the country under review furnished the following information: *“This is done verbally and in writing through routine orders, circulars and official instructions. Those instructions are archived.”*<sup>109</sup>

[473] As regards the occasions on which personnel are apprised of their responsibilities and functions, in its Response to the Questionnaire, the country under review indicated that: *“Upon entry within the Force personnel are informed of their responsibilities and functions. When there function changes they also are informed of their new responsibilities”*.<sup>110</sup>

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<sup>103</sup> Response of Suriname to the Fifth Round Questionnaire, p. 8.

<sup>104</sup> Response of Suriname to the Fifth Round Questionnaire, p. 8.

<sup>105</sup> Response of Suriname to the Fifth Round Questionnaire, p. 8.

<sup>106</sup> Response of Suriname to the Fifth Round Questionnaire, pp. 8 and 9.

<sup>107</sup> Response of Suriname to the Fifth Round Questionnaire, p. 4.

<sup>108</sup> Available at [www.dna.sr/media/15982/politie\\_handvest.pdf](http://www.dna.sr/media/15982/politie_handvest.pdf)

<sup>109</sup> Response of Suriname to the Fifth Round Questionnaire, p. 5.

<sup>110</sup> Response of Suriname to the Fifth Round Questionnaire, p. 5.

[474] As regards the existence of induction or instruction programs and courses for personnel on how to discharge their responsibilities and functions correctly and, in particular, to raise their awareness about the risks of corruption inherent in the fulfillment of their responsibilities, in its Response to the Questionnaire, the country under review<sup>111</sup> said that: *“The Suriname Police Force/“Korps Politie Suriname” has no introductory, training or instructional programs and courses making them aware of the risks of corruption inherent in the performance of their functions. The Personnel occasionally receives information about the risk of corruption through awareness sessions and trainings that are being offered by other countries and institutions<sup>112</sup>”*.

[475] As regards the use of modern communications technologies for apprising personnel of the responsibilities and functions of their positions and for providing them with guidance regarding the correct discharging thereof, in its Response to the Questionnaire, the country under review said that *“No, there is no use of modern communication technologies within the Suriname Police Force/ “Korps Politie Suriname” when it comes to corruption”*.<sup>113</sup>

[476] As regards the existence of agencies available to personnel for obtaining information or resolving issues about the due performance of their responsibilities and functions, in its Response to the Questionnaire, the country under review said that<sup>114</sup>: *“There are no such bodies within the Suriname Police Force/ “Korps Politie Suriname”*, However, during the on-site visit, the representatives of the KPS explained that personnel can consult with the Department of Human Resources for that purpose<sup>115</sup>.

[477] Regarding the existence of a governing body, authority, or agency responsible for defining, guiding, advising, or supporting the ways in which personnel are apprised of their responsibilities and functions and ensuring that this is done completely, and the measures or actions that those bodies can take to ensure compliance with the provisions and/or measures governing this matter, in its Response to the Questionnaire, the country under review indicated that:<sup>116</sup> *“No, there is no such governing organ within the Suriname Police Force/ “Korps Politie Suriname”*.<sup>117</sup>

[478] Regarding the way in which personnel are apprised of the ethical rules governing their activities, indicating whether that is done verbally or in writing and whether records of those instructions are kept, in its Response to the Questionnaire, the country under review said that<sup>118</sup>: *“Personnel of the Suriname Police Force/ “Korps Politie Suriname” are informed of ethical rules governing their activities when they enlist within the Force. They pledge allegiance to the country and its Constitution and they receive a standard Code of Conduct on how they have to behave and present themselves throughout their career within the Force”*.<sup>119</sup>

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<sup>111</sup> Response of Suriname to the Fifth Round Questionnaire, p. 5.

<sup>112</sup> On July 24, 2018, the country under review formulated the following observation: *“This is incorporated within the regular training (elementary, advanced and strategic training)”*.  
[http://www.oas.org/juridico/english/mesicic5\\_sur.htm](http://www.oas.org/juridico/english/mesicic5_sur.htm)

<sup>113</sup> Response of Suriname to the Fifth Round Questionnaire, p. 6.

<sup>114</sup> Response of Suriname to the Fifth Round Questionnaire, p. 6.

<sup>115</sup> On July 24, 2018, the country under review formulated the following observation: *“And also the Department of Internal Affairs.”*

<sup>116</sup> Response of Suriname to the Fifth Round Questionnaire, p. 6.

<sup>117</sup> On July 24, 2018, the country under review informed that the KPS has a Department of Internal Affairs.

<sup>118</sup> On July 24, 2018, the country under review formulated the following observation: *“Also when do go for advanced and strategic training.”*

<sup>119</sup> Response of Suriname to the Fifth Round Questionnaire, p. 7.

[479] Regarding the occasions on which personnel are apprised of the ethical rules governing their activities, indicating whether this takes place when they begin their employment or subsequently, when a change in their duties implies a different set of applicable ethical rules, or when those rules are modified, in its Response to the Questionnaire, the country under review said that: *“The personnel of the Suriname Police Force/ “Korps Politie Suriname” are informed once of the ethical rules governing their activities and that is done upon entry within the Force.”*<sup>120</sup>

[480] As regards the existence of induction or training programs and courses for personnel on the ethical rules governing their activities and, in particular, on the consequences of noncompliance for the public service and for those in breach thereof, in its Response to the Questionnaire, the country under review said that: *“The personnel of the Suriname Police Force/ “Korps Politie Suriname” is informed on ethical rules governing their activities and failure to abide by them will lead to the conduction of an internal investigation. After the investigation the Ministry of Justice and Police will decide which disciplinary action will be taken against the wrongdoers according to article 40 of the Charter of Police 1971”.*<sup>121</sup>

[481] As regards the use of modern communications technologies for informing personnel of the ethical rules governing their activities and for providing them with guidance about their scope and interpretation, in its Response to the Questionnaire, the country under review said that: *“There is no modern communication technology used in this regard”.*<sup>122</sup>

[482] As regards the existence of agencies available to personnel for obtaining information or resolving issues about the scope or interpretation of the ethical rules governing their activities, the country under review reported that: *“There are no such bodies within the Suriname Police Force/ “Korps Politie Suriname”*<sup>123</sup>

[483] Finally, regarding the existence of a governing body, authority, or agency responsible for defining, guiding, advising, or supporting the ways in which personnel are apprised of the ethical rules governing their activities and ensuring that this is done completely, and the measures or actions that those bodies can take to ensure compliance with the provisions and/or measures governing this matter, the country under review reported that: *“There is no such organ within the Suriname Police Force/ “Korps Politie Suriname”*<sup>124</sup>

## **1.2. Adequacy of the legal framework and/or of other measures**

[484] As regards the constitutional, statutory, and other legal provisions that the Committee has examined for measures intended to instruct the personnel of the two public agencies selected by the country under review and to ensure their proper understanding of their responsibilities and the ethical rules governing their activities, they may be said to be pertinent for promoting the purposes of the Convention.

[485] Irrespective of the foregoing, the Committee believes it would be appropriate to offer some comments in connection with them:

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<sup>120</sup> Response of Suriname to the Fifth Round Questionnaire, p. 7.

<sup>121</sup> Response of Suriname to the Fifth Round Questionnaire, p. 7.

<sup>122</sup> Response of Suriname to the Fifth Round Questionnaire, p. 8.

<sup>123</sup> Response of Suriname to the Fifth Round Questionnaire, p. 8.

<sup>124</sup> Response of Suriname to the Fifth Round Questionnaire, p. 8.

- With respect to the provisions and/or other measures applicable to the Ministry of Home Affairs, the Committee notes the following:

[486] First, the Committee notes that the country under review reports that although personnel are apprised of their responsibilities and functions verbally and in writing, no records are kept thereof. In connection with this, the Committee believes it would be useful for the country under review to consider implementing a register of the civil servants who receive training on their responsibilities and functions and to include a record thereof in their personnel files. The Committee will formulate a recommendation (see Recommendation 1.4.1 in section 1.4 of Chapter III of this Report).

[487] Second, the Committee notes that during the on-site visit, the representatives of the Ministry of Home Affairs said that although personnel were informed about their responsibilities and functions upon joining the public administration when they take the civil service oath (which is obligatory under the Personnel Act) and are given a description of their duties, there is no induction program for newly hired personnel. Given the foregoing, the Committee believes it would be useful for the country under review to consider adopting induction programs for newly hired personnel in order to ensure they correctly understand their functions and responsibilities. The Committee will formulate a recommendation (see Recommendation 1.4.2 in section 1.4 of Chapter III of this Report).

[488] Third, as regards other occasions when personnel are given training on their responsibilities and functions following the start of their employment, the Committee notes that in its Response to the Questionnaire, the country under review reports that such training is only sporadic and not obligatory. In connection with this, the Committee believes it would be useful for the country under review to consider adopting regular training programs to inform personnel of their responsibilities and functions, particularly when those duties are modified or a change in position or promotion alters those duties, and to make such training obligatory. The Committee will formulate a recommendation in this regard (see Recommendation 1.4.3 in section 1.4 of Chapter III of this Report).

[489] Fourth, the Committee notes that both in its Response to the Questionnaire and during the on-site visit,<sup>125</sup> on which occasion the representatives of the Ministry of Home Affairs furnished information, the country under review identified, as one difficulty, *“The absence of performance appraisal and assessment interviews on a regular basis makes it difficult to ensure that civil servants are aware of their responsibilities and informed of their functions. An appraisal and assessment system has recently been developed which will be implemented very soon after approval of the minister of Home Affairs of Suriname”*.<sup>126</sup>

[490] In light of the foregoing, the Committee believes it would be useful for the country under review to consider establishing a performance evaluation system for civil servants, in order to be able to assess their correct understanding of their responsibilities and functions. The Committee will formulate a recommendation (see Recommendation 1.4.4 in section 1.4 of Chapter III of this Report).

[491] Fifth, as regards the existence of induction or instruction programs and courses for personnel on how to discharge their responsibilities and functions correctly and, in particular, to raise their awareness about the risks of corruption inherent in the fulfillment of their responsibilities, the Committee notes that the country under review said in its Response to the Questionnaire that this takes place through the *Surnumerair Training* and Advanced Civil Service Training (VAAO training), but that enrolling in those courses is not obligatory. In connection with this, it should be noted that during the on-site visit, the

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<sup>125</sup> Response of Suriname to the Fifth Round Questionnaire, p. 10.

<sup>126</sup> Response of Suriname to the Fifth Round Questionnaire, p. 10.

representatives of the Ministry of Home Affairs explained that those courses were intended more to raise the levels of schooling of the public administration's personnel in general, since the numbers of people entering public service without basic education were very high. Thus, they reported that those courses were run by the Training and Education Institute and that their initial purpose was to ensure that the lowest-level civil servants could complete primary education, which was the aim of the *Surnumerair Training*, whereas the Advanced General Civil Service Training (VAAO Training) covered secondary education and, as of 2018, is to include university courses. However, the Committee notes that although these courses represent a tool for raising the general level of education among public administration personnel, they are not specifically designed to instruct them on discharging their responsibilities and functions and they are not obligatory, and that although the more advanced courses include modules on ethics, enrollment is not obligatory and they do not cover all civil servants.

[492] Given the foregoing, the Committee believes it would be useful for the country under review to consider adopting training programs, as well as manuals, guidelines and other similar documents, specifically intended to instruct personnel in the correct performance of their functions and to raise their awareness of the risks of corruption inherent in the fulfillment of their responsibilities, and in particular, on the consequences of noncompliance for the public service and for those in breach thereof, and to make participation obligatory so that they cover all members of the public administration's personnel. The Committee will formulate a recommendation in this regard (see Recommendation 1.4.5 in section 1.4 of Chapter III of this Report).

[493] It should also be noted that during the on-site visit, the civil society organization indicated that:<sup>127</sup>

[494] – *“The government continues to organize its annual civil servants’ training courses (Surnumerair I and II, Population Administration and Voortgezette Algemene Ambtenaren Opleiding, VAAO I and II). However, these courses are only organized in Paramaribo (with the exception of Population Administration) and are not required.*

[495] – *“The only incentive is a slight salary increase, now even less desirable than in previous years.*

[496] – *“The number of registration for these courses has been declining over the years, necessitating an extension of the enrollment period for the courses of 2017- 2018.*

[497] – *“We do not know how Ethics/probity is included in the design of the courses (it was a small part of the curriculum in years past).”*

[498] Sixth, as regards the use of modern communications technologies for informing personnel of the responsibilities and functions of their positions and for providing them with guidance regarding the correct discharging thereof, the Committee notes that in its Response to the Questionnaire, the country under review indicated that at present it had no such mechanisms. The Committee also notes that during the on-site visit, the representatives of the Ministry of Home Affairs stated that they were working to implement an electronic program for human resource management but that the software was very expensive and the necessary resources were not available.

[499] Given the foregoing, the Committee believes it would be useful for the country under review to consider using modern communications technologies to instruct personnel on how to discharge their functions correctly and to raise their awareness about the risks of corruption inherent in the fulfillment of

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<sup>127</sup> See document submitted by *Stiching Projekta* at [http://www.oas.org/juridico/PDFs/mesicic5\\_sur\\_civilsoc\\_annex5.pdf](http://www.oas.org/juridico/PDFs/mesicic5_sur_civilsoc_annex5.pdf)

their responsibilities, and to consider ensuring that the Ministry of Home Affairs has the human and budgetary resources needed for that purpose. The Committee will formulate recommendations in this regard (see Recommendations 1.4.6 and 1.4.7 in section 1.4 of Chapter III of this Report).

[500] Seventh, regarding the way in which personnel are apprised of the ethical rules governing their activities, and whether that is done verbally or in writing and whether records thereof are kept, the Committee notes that in its Response to the Questionnaire, the country under review reports that *“Personnel are incidentally informed of the ethical rules governing their activities. However, there is a module called ‘integrity’ which is being taught to government personnel / civil servants who have enrolled in the Advanced General Civil Service Training.”*<sup>128</sup>

[501] In connection with this, the Committee notes that as stated above, although the Advanced Civil Service Training courses contain an “integrity” module, enrollment is voluntary and they are intended to raise the general level of schooling within the public administration and that, consequently, those courses do not cover all members of the civil service. Similarly, the Committee believes that it would be beneficial for the country under review to consider adopting training programs to inform personnel about the ethical rules governing their activities, given regularly and obligatory for all the public administration’s personnel, for records thereof to be kept, and for records of that training to be included in the civil servants’ personnel files. The Committee will formulate recommendations in this regard (see Recommendations 1.4.8 and 1.4.9 in section 1.4 of Chapter III of this Report).

[502] Eighth, regarding the occasions on which personnel are apprised of the ethical rules governing their activities, indicating whether this takes place when they begin their employment or subsequently, when a change in their duties implies a different set of applicable ethical rules, or when those rules are modified, the Committee notes that in its Response to the Questionnaire, the country under review indicated that civil servants are required by the Personnel Act to take an oath upon entering public service, in which they undertake to discharge their duties with honesty, but it did not indicate, either in its Response to the Questionnaire or during the on-site visit, whether such training was given on any other occasion. Given the foregoing, the Committee believes it would be useful for the country under review to consider adopting training programs of this kind for the public administration’s personnel, not only when they join the public administration but also at other times, including when a change in their duties implies a different set of applicable ethical rules or when those rules are modified. The Committee will formulate a recommendation (see Recommendation 1.4.10 in section 1.4 of Chapter III of this Report).

[503] Furthermore, the Committee also notes that during the on-site visit, the representatives of the Ministry of Home Affairs stated that in 2012 there were plans to open an Integrity Office and to develop a code of integrity, but that this did not occur because of a ministerial change. In connection with this, the Committee also notes that Article 4 of the recently enacted Anticorruption Act empowers the Anticorruption Commission to present civil service integrity codes to the government and to the relevant administrative agencies. However, the Committee also notes that the Anticorruption Commission has not yet been set up and, consequently, that this undertaking has not been completed. In connection with this, in section 2 of Chapter II of this Report, the Committee has already addressed the need to set up the Anticorruption Commission as promptly as possible.<sup>129</sup>

[504] Regardless of the foregoing, the Committee believes it would be useful for the country under review to adopt codes of integrity applicable to the public administration’s personnel and, as they are adopted within the country’s government agencies, to implement training programs focused specifically

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<sup>128</sup> Response of Suriname to the Fifth Round Questionnaire, p. 10.

<sup>129</sup> See recommendations 2.4.6, 2.4.7, and 2.4.8 in section 2.4 of Chapter II of this report.

on complying with those codes of integrity and to appoint the authorities responsible for implementing the codes and the corresponding training programs (see Recommendation 1.4.11 in section 1.4 of Chapter III of this Report).

[505] Ninth, as regards the existence of agencies to which personnel can resort for obtaining information or resolving issues about the scope or interpretation of the ethical rules governing their activities, in its Response to the Questionnaire, the country under review indicated that to date, no such agencies existed in Suriname. In connection with this, the Committee believes it would be useful for the country under review to consider establishing them and, to that end, it will formulate a recommendation (see Recommendation 1.4.12 in section 1.4 of Chapter III of this Report).

[506] Finally, regarding the existence of a governing body, authority, or agency responsible for defining, guiding, advising, or supporting the ways in which the public administration's personnel are apprised of the ethical rules governing their activities and ensuring that this is done completely, and the measures or actions that those bodies can take to ensure compliance with the provisions and/or measures governing this matter, the country under review said that at the present time, no such agency existed in Suriname. In connection with this, the Committee believes it would be useful for the country under review to consider the creation of a governing body, authority, or agency with those responsibilities and, to that end, it will formulate a recommendation (see Recommendation 1.4.13 in section 1.4 of Chapter III of this Report).

- With respect to the provisions and/or other measures applicable to the Suriname Police Force (*Korps Politie Suriname*, KPS), the Committee notes the following:

[507] First of all, the Committee notes that both in its Response to the Questionnaire and during the on-site visit, the country under review indicated that although the Suriname Police Force (*Korps Politie Suriname*, KPS) does not have induction, training, or instruction programs or courses to guide personnel on how to discharge their responsibilities and functions correctly and, in particular, to raise their awareness about the risks of corruption inherent in the fulfillment of their responsibilities, occasionally personnel receive information on corruption risks and training provided by other countries and institutions. In this connection, the Committee believes it would be useful for the country under review to consider strengthening the KPS through the adoption of regularly held induction, training, or instruction programs or courses and, in addition, to consider ensuring that the Force has the human and financial resources needed, within the available resources, to carry them out completely. The Committee will formulate a recommendation on this point (see Recommendation 1.4.14 in section 1.4 of Chapter III of this Report).

[508] At the same time, the Committee believes it would be useful for the country under review to consider implementing a register of the KPS officers who receive training on the correct performance of their responsibilities and functions, and on the corruption risks inherent in their positions, and to include a record thereof in their personnel files. The Committee will formulate a recommendation (see Recommendation 1.4.15 in section 1.4 of Chapter III of this Report).

[509] Second, as regards the use of modern communications technologies for guiding KPS officers about the correct performance of their functions and raising their awareness of corruption risks, in its Response to the Questionnaire, the country under review indicates that it does not have tools of that kind for corruption-related matters. In this connection, the Committee believes that it would be beneficial for the country under review to consider making use of modern communications technologies for those purposes and to consider ensuring that the KPS has the human and budgetary resources necessary, within the available resources, to carry that out. The Committee will formulate a recommendation (see Recommendation 1.4.16 in section 1.4 of Chapter III of this Report).

[510] Third, regarding the way in which personnel are apprised of the ethical rules governing their activities, and whether that is done verbally or in writing and whether records of those instructions are kept, in its Response to the Questionnaire, the country under review indicated that KPS officers are informed of the ethical rules governing their activities when they join the Force, when they take their oaths of loyalty to the country and the constitution and receive a copy of the standard Code of Conduct. However, the Committee notes that no mention is made of any records kept indicating that the civil servant has received and understood those instructions. The Committee therefore believes it would be useful for the country under review to consider keeping a register of the civil servants who have received and understood those instructions and for a record thereof to be included in their personnel files. The Committee will formulate a recommendation (see Recommendation 1.4.17 in section 1.4 of Chapter III of this Report).

[511] Fourth, regarding the occasions on which personnel are apprised of the ethical rules governing their activities, and in particular, on the consequences of noncompliance for the public service and for those in breach thereof, indicating whether this takes place when they begin their employment or subsequently, when a change in their duties implies a different set of applicable ethical rules, or when those rules are modified, in its Response to the Questionnaire, the country under review reported that this takes place solely when they join the Force. Given the foregoing, the Committee believes it would be useful for the country under review to consider adopting training programs of this kind for the personnel of the KPS, not only when they join the Force but also on other occasions, including when a change in their duties implies a different set of applicable ethical rules or when those rules are modified. The Committee will formulate a recommendation (see Recommendation 1.4.18 in section 1.4 of Chapter III of this Report).

[512] Fifth, the Committee notes that in its Response to the Questionnaire, the country under review identifies as a difficulty the fact that modern communications technologies are not used to inform the KPS personnel about the ethical rules governing their activities or to provide guidance about their scope and interpretation.<sup>130</sup> In this regard, the Committee believes it would be useful for the country under review to consider using those methods for those purposes, and to strengthen the KPS by providing it with the necessary budgetary and human resources, within the available resources, for that purpose. The Committee will formulate a recommendation (see Recommendation 1.4.19 in section 1.4 of Chapter III of this Report).

[513] Sixth, the Committee notes that in its Response to the Questionnaire, the country under review identified as one of the difficulties the fact that within the KPS there is no agency available to the personnel for obtaining information or resolving issues about the scope or interpretation of the ethical rules governing their activities.<sup>131</sup> In connection with this, the Committee believes it would be useful for the country under review to consider establishing such an agency within the KPS and, to that end, it will formulate a recommendation (see Recommendation 1.4.20 in section 1.4 of Chapter III of this Report).

[514] Finally, the Committee also notes that in its Response to the Questionnaire, the country under review identified as a difficulty<sup>132</sup> the fact that the KPS does not have a governing body, authority, or agency responsible for defining, guiding, advising, or supporting the ways in which personnel are apprised of the ethical rules governing their activities and ensuring that this is done completely, and the measures or actions that those bodies can take to ensure compliance with the provisions and/or measures governing this matter. In connection with this, the Committee believes it would be useful for the country under review consider establishing such a governing body or authority for the KPS, above all taking into

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<sup>130</sup> Response of Suriname to the Fifth Round Questionnaire, pp. 8 and 10.

<sup>131</sup> Response of Suriname to the Fifth Round Questionnaire, pp. 8 and 10.

<sup>132</sup> Response of Suriname to the Fifth Round Questionnaire, pp. 8 and 10.

consideration that, as indicated previously, the Anticorruption Commission has not yet been set up. The Committee will formulate a recommendation (see Recommendation 1.4.21 in section 1.4 of Chapter III of this Report).

### **1.3. Results**

[515] The country under review did not provide, either in its Response to the Questionnaire or during the on-site visit, statistical results obtained on the enforcement of the provisions and/or measures related to the instructions given to the personnel of the selected public agencies to ensure their correct understanding of their responsibilities and functions and of the ethical rules governing their activities.

[516] Given the foregoing, the Committee believes it would be useful for the country under review to keep detailed statistics on all the public sector entities under the jurisdiction of the Ministry of Home Affairs and of the KPS, with disaggregated yearly data on induction, training, and instruction courses to ensure that personnel correctly understand their official responsibilities and functions, the timing or frequency with which those courses are given, the number of civil servants participating, and the activities carried out to determine whether the goal of ensuring that they understand those official responsibilities and functions has been accomplished. The Committee will formulate recommendations. (See Recommendations 1.4.22 and 1.4.23 in section 1.4 of Chapter III of this Report.)

[517] Furthermore, the Committee believes it would be useful for the country under review to consider keeping detailed statistics on all the public sector entities under the jurisdiction of the Ministry of Home Affairs and of the KPS, with disaggregated yearly data on induction, training, and instruction courses to ensure that personnel correctly understand the ethical rules governing the personnel's activities, the timing or frequency with which those courses are given, the number of civil servants participating, the use of technological tools to that end, and the activities carried out to determine whether the goal of ensuring the understanding of those official responsibilities and functions has been accomplished. The Committee will formulate recommendations. (See Recommendations 1.4.24 and 1.4.25 in section 1.4 of Chapter III of this Report.)

### **1.4. Conclusions and Recommendations**

[518] In light of the comments made in sections 1.2 and 1.3 of Chapter III of this Report, the Committee suggests that the country under review consider the following recommendations:

- 1.4.1. Implement a register of the civil servants who receive training on their responsibilities and functions and include a record thereof in their personnel files. (See paragraph 486 in section 1.2 of Chapter III of this Report.)
- 1.4.2. Adopt induction programs for newly hired personnel to inform them of their responsibilities and functions and ensure that they correctly understand them. (See paragraph 487 in section 1.2 of Chapter III of this Report.)
- 1.4.3. Adopt regular, obligatory training programs to inform all public administration personnel about their responsibilities and functions on occasions other than the start of employment, particularly when those duties are modified or when a change in position alters those duties. (See paragraph 488 in section 1.2 of Chapter III of this Report.)
- 1.4.4. Establish a performance evaluation system for public administration personnel, in order to be able to assess their correct understanding of their responsibilities and functions. (See paragraph 489 to 490 in section 1.2 of Chapter III of this Report.)

- 1.4.5. Adopt training programs specifically intended to instruct personnel in the correct performance of their functions and to raise their awareness of the risks of corruption inherent in the fulfillment of their responsibilities, as well as manuals, guidelines and other similar documents, and make participation obligatory so that they cover all members of the public administration's personnel. (See paragraphs 491 to 497 in section 1.2 of Chapter III of this Report.)
- 1.4.6. Make use of modern communications technologies for informing public administration personnel of the responsibilities and functions of their positions, for providing them with guidance regarding the correct discharging thereof, and for raising their awareness of the corruption risks inherent therein. (See paragraphs 498 to 499 in section 1.2 of Chapter III of this Report.)
- 1.4.7. Strengthen the Ministry of Home Affairs by ensuring that it has the human and budgetary resources, needed to make use of modern communications technologies to inform its personnel about their responsibilities and functions and to guide them regarding the correct discharging thereof, within available resources. (See paragraphs 498 to 499 in section 1.2 of Chapter III of this Report.)
- 1.4.8. Adopt regular, obligatory training programs to inform public administration personnel about the ethical rules governing their activities, and in particular, on the consequences of noncompliance for the public service and for those in breach thereof. (See paragraphs 500 to 501 in section 1.2 of Chapter III of this Report.)
- 1.4.9. Implement a register of the employees of the public administration who receive training on the ethical rules governing their activities and include a record thereof in their personnel files. (See paragraphs 500 to 501 in section 1.2 of Chapter III of this Report.)
- 1.4.10. Implement training programs to inform all public administration personnel about the ethical rules governing their activities on occasions other than the start of employment, when a change in their duties implies a different set of applicable ethical rules, or when those rules are modified. (See paragraph 502 in section 1.2 of Chapter III of this Report.)
- 1.4.11. Adopt codes of integrity applicable to the public administration's personnel and, as they are adopted within the country's government agencies, implement training programs focused specifically on complying with those codes of integrity and appoint the authorities responsible for implementing the codes and the corresponding training programs. (See paragraphs 503 to 504 in section 1.2 of Chapter III of this Report.)
- 1.4.12. Establish agencies to which public administration personnel can resort to obtain information or resolve issues related to the scope or interpretation of the ethical rules governing their activities. (See paragraph 505 in section 1.2 of Chapter III of this Report.)
- 1.4.13. Establish a governing body, authority, or agency responsible for defining, guiding, advising, or supporting the ways in which personnel in the public administration are apprised of the ethical rules governing their activities and ensuring that this is done completely, and the measures or actions that those bodies can take to ensure compliance with the provisions and/or measures governing this matter. (See paragraph 506 in section 1.2 of Chapter III of this Report.)

- 1.4.14. Implement induction, training, or instructional programs and courses to raise the awareness of the personnel of the Suriname Police Force (KPS) regarding the correct performance of their responsibilities and functions, and in particular, about the risks of corruption inherent in the fulfillment of their responsibilities; and ensure that the institution has the human and budgetary resources needed, within the available resources, so that this training can be carried out regularly and in full. (See paragraph 507 in section 1.2 of Chapter III of this Report.)
- 1.4.15. Implement a register of the KPS officers who receive training on the correct performance of their responsibilities and functions and on the corruption risks inherent in their positions, and include a record thereof in their personnel files. (See paragraph 508 in section 1.2 of Chapter III of this Report.)
- 1.4.16. Make use of modern communications technologies to guide the personnel of the KPS about the correct performance of their responsibilities and functions and raise their awareness about the corruption risks inherent in their positions; and ensure that the institution has the human and budgetary resources needed, within the available resources, for that purpose. (See paragraph 509 in section 1.2 of Chapter III of this Report.)
- 1.4.17. Implement a register of the KPS officers who receive instructions on the ethical rules governing their activities and, in particular, on the consequences of noncompliance for the public service and for those in breach thereof, and include a record thereof in their personnel files. (See paragraph 510 in section 1.2 of Chapter III of this Report.)
- 1.4.18. Implement training programs to apprise all the personnel of the KPS about the ethical rules governing their activities and, in particular, on the consequences of noncompliance for the public service and for those in breach thereof, on occasions other than the commencement of service, when a change in their duties implies a different set of applicable ethical rules, or when those rules are modified. (See paragraph 511 in section 1.2 of Chapter III of this Report.)
- 1.4.19. Make use of modern communications technologies to apprise the personnel of the KPS about the ethical rules governing their activities and to provide guidance about the scope and interpretation thereof, ensuring that the institution has the human and budgetary resources needed, within the available resources, for that purpose. (See paragraph 512 in section 1.2 of Chapter III of this Report.)
- 1.4.20. Establish an agency within the KPS to which the public administration's personnel can resort to obtain information or resolve issues regarding the scope and interpretation of the ethical rules governing their activities. (See paragraph 513 in section 1.2 of Chapter III of this Report.)
- 1.4.21. Establish a governing body, authority, or agency responsible for defining, guiding, advising, or supporting the ways in which personnel of the KPS are apprised of the ethical rules governing their activities and ensure that this is done completely, and the measures or actions that those bodies can take to ensure compliance with the provisions and/or measures governing this matter. (See paragraph 514 in section 1.2 of Chapter III of this Report.)
- 1.4.22. Keep detailed statistics on all the public sector entities under the jurisdiction of the Ministry of Home Affairs, with disaggregated yearly data on induction, training, and

instruction courses to ensure that personnel correctly understand their official responsibilities and functions, the timing or frequency with which those courses are given, the number of civil servants participating, and the activities carried out to determine whether the goal of ensuring the understanding of those official responsibilities and functions has been accomplished. (See paragraphs 515 to 516 in section 1.2 of Chapter III of this Report.)

- 1.4.23. Keep detailed statistics on the KPS, with disaggregated yearly data on induction, training, and instruction courses to ensure that personnel correctly understand their official responsibilities and functions, the timing or frequency with which those courses are given, the number of civil servants participating, and the activities carried out to determine whether the goal of ensuring the understanding of those official responsibilities and functions has been accomplished. (See paragraphs 515 to 516 in section 1.2 of Chapter III of this Report.)
- 1.4.24. Keep detailed statistics on all the public sector entities under the jurisdiction of the Ministry of Home Affairs, with disaggregated yearly data on induction, training, and instruction courses to ensure that personnel correctly understand the ethical rules governing their activities, the timing or frequency with which those courses are given, the number of civil servants participating, the use of technological tools for those purposes, and the activities carried out to determine whether the goal of ensuring that they understand those official responsibilities and functions has been accomplished. (See paragraph 517 in section 1.2 of Chapter III of this Report.)
- 1.4.25. Keep detailed statistics on the KPS, with disaggregated yearly data on induction, training, and instruction courses to ensure that personnel correctly understand the ethical rules governing their activities, the timing or frequency with which those courses are given, the number of civil servants participating, the use of technological tools for those purposes, and the activities carried out to determine whether the goal of ensuring that they understand those official responsibilities and functions has been accomplished. (See paragraph 517 in section 1.2 of Chapter III of this Report.)

## **2. ESTABLISHMENT OF OBJECTIVE AND TRANSPARENT CRITERIA FOR SETTING PUBLIC SERVANTS' SALARY LEVELS**

### **2.1 STUDY OF PREVENTIVE MEASURES THAT TAKE INTO ACCOUNT THE RELATIONSHIP BETWEEN EQUITABLE COMPENSATION AND PROBITY IN PUBLIC SERVICE**

[519] In its Response to the Questionnaire, Suriname indicates that no studies into this issue have been carried out within either the Ministry of Home Affairs or the Suriname Police Force (KPFS).

### **2.2 ESTABLISHMENT OF OBJECTIVE AND TRANSPARENT CRITERIA FOR DETERMINING THE COMPENSATION OF PUBLIC SERVANTS**

#### **2.2.1 Existence of a legal framework and/or other measures**

[520] The country under review has certain mechanisms designed to determine the remuneration given to public servants, including the following:<sup>133</sup>

[521] – The FISO system, which is a function evaluation tool based on a points system than can assess a function by small component fractions.

### **2.2.2 Adequacy of the legal framework and/or of other measures**

[522] With regard to the provisions related to the establishment of objective and transparent criteria for setting public servants' salary levels, on the basis of the information available to it, the Committee believes it pertinent to offer the following comments:

[523] First of all, as regards the implementation of the FISO system for calculating and managing public administration workers' earnings, the Committee notes that during the on-site, as already stated in section 1.1.1 of Chapter II of this Report, the representatives of the Ministry of Home Affairs identified the following among a number of difficulties with the system's implementation:

[524] – The FISO system does not cover all positions within the public administration, such as public prosecutors, judges of the High Court of Justice, senior public officials at the Ministry of Justice and Police (MJP), personnel with special functions, including medical staff and teachers, advisors and people who provide public functions under other hiring methods, as well as others.

[525] – The exceptions to the FISO system are constantly growing in number.

[526] – The FISO system is a computer-based system and, as such, requires regular updates to remain fully functional; and that is not possible at present because the license has expired and its renewal has not been possible. This also has an impact on updating job descriptions and their corresponding salary scales.

[527] Likewise, the Committee notes that in its Response to the Questionnaire, the country under review reported that *“No, the Suriname Police Force/ Korps Politie Suriname has not established objective and transparent criteria for determining the compensation of public servants.”*<sup>134</sup>

[528] In connection with this, the Committee again states that as regards the functioning of the FISO system, it has already spoken and offered recommendations in section 1.1.3 of Chapter II of this Report and, for that reason, will not do so again.<sup>135</sup>

[529] Regardless of the foregoing, and bearing in mind the comments made above, the Committee believes it would be useful for the country under review to consider adopting the relevant legal measures to establish a common wage policy law for all institutions within the public sector, establishing, at a minimum, objective criteria for equitable remuneration in the public sector, and strengthening strict and obligatory guidelines for all the existing employment regimes. The Committee will formulate a recommendation (see Recommendation 2.2.3.1 in section 2.2.3 of Chapter III of this Report).

[530] Second, the Committee notes that during the on-site visit, the representatives of the Ministry of Home Affairs stated that whenever there is a change in the administration or a new minister is appointed, the staff are sent home, where they remain on the payroll, receiving their salaries without working, and

<sup>133</sup> Response of Suriname to the Fifth Round Questionnaire, p. 12.

<sup>134</sup> Response of Suriname to the Fifth Round Questionnaire, p. 11.

<sup>135</sup> See recommendation 1.1.3.11 in section 1.1.3 of this report.

they are replaced by personnel appointed by the new administration or minister belonging to the new authority's political party. Likewise, they indicated that these staff members who are sent home are designated as inactive "dismissed" personnel and they must remain "available" in case their services are needed, while they continue to receive their salaries.

[531] In addition to those public servants who have been "dismissed" or sent home following a change in the administration or the ministry, the representatives of the Ministry of Home Affairs also spoke of the problem of "ghost" officials: those who simply stop coming into work but continue to receive their salaries and benefits.

[532] In connection with this, the Committee believes it would be useful for the country under review to consider taking the steps necessary to put an end to this practice, so that salaries effectively constitute payment received by public servants from the State in exchange for work performed. The Committee will formulate a recommendation in this regard (see Recommendation 2.2.3.2 in section 2.2.3 of Chapter III of this Report).

[533] In addition, during the on-site visit, the civil society organization *Stiching Projekta* stated that "*Political appointees are business as usual, staff members are replaced with each change of ministers, previous personnel is side tracked, but kept on pay roll*"<sup>136</sup> In addition, they added that Suriname has a total of some 45,000 civil servants and that it is not known how many of them are actively working.

[534] In addition, the representatives of the University of Suriname explained that under domestic law, if a person has been a minister for one year, he or she is entitled to continue to receive a salary following dismissal until reaching the age of 60 years—the retirement age in the Surinamese civil service—and that upon reaching that age, he or she acquires the right to receive a pension and other benefits. They added that there were examples of young ministers, aged around 30, who were in that situation.

[535] Similarly, the representatives of the University of Suriname stated that although people who have been "dismissed" and are "available" cannot obtain another job and another salary because they are receiving payment from the State, they can work on a part-time basis as teachers at the University. Furthermore, many of them are in any case employed in companies, as members of commissions, company boards, and oversight committees, particularly in international cooperation projects where the payroll is beyond State control and there is no record that they are in fact working another job and receiving a second or third salary, in addition to the salary they receive from the State for being "available."

### **2.2.3 Conclusions and Recommendations**

[536] Based on the review conducted in the above sections regarding the implementation in the country under review of the provision contained in Article III, paragraph 12, of the Convention, the Committee suggests that the country under review consider the following conclusion:

2.2.3.1. Consider adopting the relevant legal measures to establish a common wage policy law for all institutions within the public sector, establishing, at minimum, objective criteria for equitable remuneration in the public sector, and strengthening strict and obligatory guidelines for all the existing employment regimes. (See paragraphs 522 to 529 in section 2.2.2 of Chapter III of this Report.)

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<sup>136</sup> See document from *Stiching Projekta*, available at [http://www.oas.org/juridico/PDFs/mesicic5\\_sur\\_civilsoc\\_annex5.pdf](http://www.oas.org/juridico/PDFs/mesicic5_sur_civilsoc_annex5.pdf)

2.2.3.2. Take the steps necessary to ensure that civil servants' salaries effectively constitute payment received from the State in exchange for work performed. (See paragraphs 530 to 535 in section 2.2.2 of Chapter III of this Report.)

#### IV. BEST PRACTICES

[537] In accordance with the provisions of section VI of the Methodology for follow-up on the implementation of the recommendations formulated and provisions reviewed in the Second Round and for the review of the Convention provisions selected for the Fifth Round adopted by the Committee, the following section addresses the best practices identified by the State that it wishes to share with the other MESICIC member countries, believing that they could be of benefit to them:

[538] – The recently adopted Anticorruption Act, regarding which the country under review indicates that<sup>137</sup>: *“The Anti-Corruption Law is part of the measures taken by the government to combat corruption in a structural and powerful manner, which should among other things lead to the restoration of moral norms and values within our society and to the restoration and conservation of the constitutional state. This should be considered a best practice because it offers the government of Suriname the tools needed to prevent, detect, punish and eradicate corruption.”*<sup>138</sup>

[539] – The new and revised extended Code of Ethics for Public Prosecutors of the PPD (*Ethische gedragscode OM*), regarding which the country under review indicates that: *“This Code of conduct/ Code of ethics for the public prosecutors and the PPD is practically ready for entry into force. The discussions and drafting were supported by a Dutch expert. The trajectory also includes an ethics course for this group on short notice.”*<sup>139</sup>

[540] – The launch of the web page of the Public Prosecutions Department (PPD), regarding which the country under review indicates that: *“On the website the citizen/ society is informed (amongst others) about the services of the PPD and also has easier access to the management of the PPD Service in the event of improper handling of responsibilities by employees.”* <http://www.openbaarministeriesuriname.org/>

[541] – The Integrity Code for Police Officers, enforced by the Internal Affairs Department of the KPS.

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<sup>137</sup> Response of Suriname to the Fifth Round Questionnaire, p. 12.

<sup>138</sup> On July 24, 2018, the country under review formulated the following observation: *“it’s a very important addition to the regulatory and other measures to preserve, where it is already there and restore ethical principles, especially values.”*

<sup>139</sup> Response of Suriname to the Fifth Round Questionnaire, p. 13.

**COMMITTEE OF EXPERTS  
OF THE FOLLOW-UP MECHANISM ON THE IMPLEMENTATION  
OF THE INTER-AMERICAN CONVENTION AGAINST CORRUPTION**

**FIFTH ROUND OF REVIEW**

**AGENDA  
FOR THE ON-SITE VISIT  
SURINAME<sup>140</sup>**

<b>Monday, April 9, 2018</b>	
3:00 pm – 4:00 pm <i>Hotel Royal Torarica</i>	<b>Coordination meeting between the representatives of the member states of the Subgroup and the Technical Secretariat</b>
4:00 pm – 5:00 pm <i>Hotel Royal Torarica</i>	<b>Coordination meeting between the representatives of the country under review, the member states of the Subgroup, and the Technical Secretariat</b>
<b>Tuesday, April 10, 2018</b>	
8:00 am – 12:15 pm <i>Ministry of Justice and Police (MJP)</i>	<b>Meetings with civil society organizations and/or, <i>inter alia</i>, private sector organizations, professional associations, academics or researchers</b>
8:30 am – 9:15 am	<p><b>Topic 1:</b></p> <ul style="list-style-type: none"> <li>• <b>Government hiring systems and training and remuneration of government officers</b></li> </ul> <p>- <b><i>Stiching Projekta</i></b> Mrs. Sharda Ganga Director</p> <p>- <b><i>Suriname Trade &amp; Industry Association (VSB)</i></b> Mrs. Cheryl Vroom Manager</p> <p>- <b><i>University of Suriname</i></b></p>

<sup>140</sup>. This agenda has been agreed on in accordance with provisions 13 and 14 of the *Methodology for On-site Visits*, available at [http://www.oas.org/juridico/spanish/met\\_insitu.pdf](http://www.oas.org/juridico/spanish/met_insitu.pdf).

	Mr. Jimmy Kasdipowidjojo, LLM Lecturer/Docent
9:30 am – 10:30 am	<b>Topic 2:</b> • <b>Systems for the protection of corruption whistleblowers</b>
	<ul style="list-style-type: none"> <li>- <i>Stiching Projecta</i> Mrs. Charda Ganga Director</li> <li>- <i>Suriname Trade &amp; Industry Association (VSB)</i> Mrs. Cheryl Vroom</li> <li>- <i>Suriname Bar Association</i> Iris Nazir Lawyer</li> </ul>
10:45 am – 12:00 pm	<b>Topic 3:</b> • <b>Systems for government procurement of goods and services</b>
	<ul style="list-style-type: none"> <li>- <i>Stiching Projecta</i> Mrs. Charda Ganga Director</li> <li>- <i>Suriname Trade &amp; Industry Association (VSB)</i> Mrs. Cheryl Vroom</li> <li>- <i>Suriname Chamber of Commerce and Industry (KKF)</i> Mr. Baboelal Widjindra Member of the Board</li> <li>- <i>Suriname Institute of Chartered Accountants. (SUVA)</i> Mr. drs. Robert-Gray van Trikt Msc. RA Ms. Lens Elvira</li> </ul>
12:30 pm – 2:00 pm	<b>Lunch</b>
2:00 pm – 5:30 pm <i>Ministry of Justice and Police (MJP)</i>	<b>Meetings with public authorities: Government hiring systems and remuneration of government officers</b>
2:00 pm – 3:30 pm	<b>Panel 1</b> • <b>Follow-up of the Second Round recommendations on government hiring systems:</b> <ul style="list-style-type: none"> <li>- New Developments</li> <li>- Results</li> </ul>

	<ul style="list-style-type: none"> <li>- Difficulties encountered and technical cooperation needs</li> </ul>
	<ul style="list-style-type: none"> <li>- Mr. Paul van Dun Acting Director Department of Personnel Affairs</li> <li>- Ministry of Home Affairs Mr. Nasier Eskak, MSc MPa General Advisor</li> </ul>
3:45 am –5:00 pm	<p><b>Panel 2:</b></p> <ul style="list-style-type: none"> <li>• <b>Preventive measures that take into account the relationship between equitable compensation and probity in public service</b></li> </ul> <ul style="list-style-type: none"> <li>- Legal framework</li> <li>- Difficulties encountered in the implementation processes and technical cooperation needs</li> </ul>
	<ul style="list-style-type: none"> <li>- Ministry of Home Affairs Mr. Nasier Eskak, MSc MPa General Advisor</li> </ul>
5:00 pm	<b>Informal meeting</b> <sup>141</sup> between the representatives of the Subgroup member states and the Technical Secretariat
<b>Wednesday, April 11, 2018</b>	
09:00 am – 12:00 pm  <i>Ministry of Justice and Police (MJP)</i>	<b>Meetings with public authorities: Instructions given to the personnel of public agencies to assist them in understanding their responsibilities and the ethical rules governing them</b>
09:00 am – 10:00 am	<p><b>Follow-up on Topic 3:</b></p> <ul style="list-style-type: none"> <li>- <i>Suriname Chamber of Commerce and Industry (KKF)</i> Mr. Jayant A. Padarath Member of the chamber</li> </ul>
10:00 am –12:00 pm	<p><b>Panel 3:</b></p> <ul style="list-style-type: none"> <li>• <b>Instructions given to the personnel of public agencies to assist</b></li> </ul>

<sup>141</sup>. The second paragraph of provision 20 of the *Methodology for Conducting On-site Visits* states: "...At the conclusion of the meetings on each day of the on-site visit, the Technical Secretariat shall organize an informal meeting with the members of the Subgroup, to exchange preliminary points of view on the topics addressed at those meetings..."

	<p><b>them in understanding their responsibilities and the ethical rules governing them:</b></p> <ul style="list-style-type: none"> <li>- Legal framework, programs, competent agencies, and use of technology</li> <li>- Results</li> <li>- Difficulties encountered in the implementation processes and technical cooperation needs</li> </ul>
	<ul style="list-style-type: none"> <li>- Ministry of Home Affairs Mr. Nasier Eskak, MSc MPa General Advisor</li> </ul>
12:00 pm – 2:30 pm	<b>Lunch</b>
2:30 pm – 5:30 pm <i>Ministry of Justice and Police (MJP)</i>	<b>Meetings with public authorities: Systems for government procurement of goods and services</b>
	<p><b><u>Panel 4:</u></b></p> <ul style="list-style-type: none"> <li>• <b>Systems for government procurement of goods and services:</b> <ul style="list-style-type: none"> <li>- New Developments</li> <li>- Results</li> <li>- Difficulties encountered in the implementation processes and technical cooperation needs</li> </ul> </li> </ul>
	<ul style="list-style-type: none"> <li>- The Ministry of Public works, Transport and Communication Ms. Rubaani Bhikie Legal Department</li> <li>- Ministry of Justice and Police (MJP): Financial Management Department Mr. Raymond Sabajo Deputy Director</li> <li>- Central National Accountants Agency/ Central Government Auditing Bureau (CLAD) Mr. Reggie Resida Manager Mrs. Haidy Simons Supervisor</li> </ul>
5:30 pm	<b>Informal meeting</b> <sup>142</sup> between the representatives of the Subgroup member states and the Technical Secretariat

<sup>142</sup>. The second paragraph of provision 20 of the *Methodology for Conducting On-site Visits* states: "...At the conclusion of the meetings on each day of the on-site visit, the Technical Secretariat shall organize an informal meeting with the members of the Subgroup, to exchange preliminary points of view on the topics addressed at those meetings..."

<b>Thursday, April 12, 2018</b>	
9:30 pm – 12:00 pm	<b>Meetings with public authorities: Systems for the protection of corruption whistleblowers and criminalization of corruption offenses</b>
8:30 am – 12:00 pm <i>Ministry of Justice and Police (MJP)</i>	<b>Meetings with public authorities: Instructions given to the personnel of public agencies to assist them in understanding their responsibilities and the ethical rules governing them</b>
8:30 am – 10:00 pm	<p><b><u>Panel 3 (Cont.):</u></b></p> <ul style="list-style-type: none"> <li>• <b>Instructions given to the personnel of public agencies to assist them in understanding their responsibilities and the ethical rules governing them:</b> <ul style="list-style-type: none"> <li>- Legal framework, programs, competent agencies, and use of technology</li> <li>- Results</li> <li>- Difficulties encountered in the implementation processes and technical cooperation needs</li> </ul> </li> </ul>
	<ul style="list-style-type: none"> <li>- The Suriname Police Force/ “Korps Politie Suriname (KPS)” Mr. Rishi Akkal Inspector of Police</li> <li>- The Public Prosecutions Department (PPD) Ms. Rolinne Gravenbeek, LLM Prosecutor</li> </ul> <p style="text-align: center;">Amanie Bijlhout, LLM</p> <p style="text-align: center;">Mrs. Carmen Rasam, LLM Sollicitor General</p>
10:15 am – 11:00 am	<p><b><u>Panel 5:</u></b></p> <ul style="list-style-type: none"> <li>• <b>Follow-up of the Second Round recommendations: Systems for the protection of corruption whistleblowers</b> <ul style="list-style-type: none"> <li>- New Developments</li> <li>- Results</li> <li>- Difficulties encountered in the implementation processes and technical cooperation needs</li> </ul> </li> </ul>
	<ul style="list-style-type: none"> <li>- The Ministry of Justice and Police (MJP) Mw. Afirah Moeniralam, LLM Legal Official</li> </ul>

	<ul style="list-style-type: none"> <li>- The Public Prosecutions Department (PPD) Ms. Rolinne Gravenbeek Prosecutor</li>   <li>Amanie Bijlhout, LLM</li>   <li>Mrs. Carmen Rasam, LLM Solicitor General</li> </ul>
11:15 am –12:30 am	<p><b><u>Panel 6:</u></b></p> <ul style="list-style-type: none"> <li>• <b>Follow-up of the Second Round recommendations: Criminalization of corruption offenses</b> <ul style="list-style-type: none"> <li>- New developments</li> <li>- Results</li> <li>- Difficulties encountered in the implementation processes and technical cooperation needs</li> </ul> </li> </ul>
	<ul style="list-style-type: none"> <li>- The Ministry of Justice and Police (MJP) Mw. Afirah Moeniralam, LLM Legal Official</li>   <li>Mr.M. Chin A Fat, MLS (Deputy Director Justice)</li>   <li>Ms. Dusty Karijadrana (Legal Official)</li>   <li>- The Public Prosecutions Department (PPD) Ms. Rolinne Gravenbeek Prosecutor</li>   <li>Mrs. Carmen Rassam</li> </ul>
12:00 am – 12:30 am	Meeting between the representatives of the country under review, the member states of the subgroup and the Technical Secretariat
12:30 pm – 13:00 pm	Final informal meeting between the representatives of the Subgroup member states and the Technical Secretariat

**AUTHORITIES WHO SERVED AS CONTACTS IN THE COUNTRY UNDER REVIEW FOR  
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